



COTTONWOOD HEIGHTS PLANNING COMMISSION MEETING AGENDA

Notice is hereby given that the Cottonwood Heights Planning Commission will hold a **Work Session Meeting** (Room 124, City Council Conference Room) beginning at **5:00 p.m.** and a **Business Meeting** (Room 5, Council Chambers) beginning at **6:00 p.m. on Wednesday, September 6, 2017**, located at 2277 East Bengal Boulevard, Cottonwood Heights, Utah.

5:00 p.m. WORK SESSION (Room 124)

1.0 Review Business Meeting Agenda

(The Commission will review and discuss agenda items.)

2.0 Additional Discussion Items

The Commission may discuss the status of pending applications and matters before the Commission and new applications and matters that may be considered by the Commission in the future.

6:00 p.m. BUSINESS MEETING (Room 5)

1.0 WELCOME/ACKNOWLEDGEMENTS – Commission Chair

2.0 CITIZEN COMMENTS

(Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to three minutes per person per item. A spokesperson who has been asked by a group that is present to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the City Planner prior to noon the day before the meeting.)

3.0 PUBLIC HEARINGS

3.1 (Project #CUP-17-008)

Public comment on a request from Canyons School District for conditional use approval to construct a public facilities electronic display sign at Ridgecrest Elementary School; 1820 E 7200 S.

3.2 (Project #LOT-17-002)

Public comment on a request from Carl Greene to consolidate lots 10 and 11 of the Pheasant Wood Estates subdivision; 7768 S Pheasant Wood Dr.

3.3 (Project #LOT-17-004)

Public comment on a request from Benjamin Rivera to consolidate lot 1 of the Cottonwood Ridge Subdivision with three adjacent parcels; 6810 S Virginia Hills Dr.

3.4 **(Project #ZTA-17-002) Accessory Dwelling Units**

Public comment on a city initiated proposal to create an Accessory Dwelling Unit ordinance.

3.5 **(Project #ZTA-17-003) ‘Small-cell’ Wireless Telecommunications Facilities**

Public comment on a city initiated proposal to create an ordinance chapter for ‘Small Cell’ Wireless Telecommunication Equipment.

3.6 **(Project #ZTA-17-004) Wireless Telecommunication**

Public comment on a city initiated proposal to revise chapter 19.83 of the zoning ordinance (Wireless Telecommunications Facilities).

4.0 **ACTION ITEMS**

4.1 **(Project #CUP-17-008)**

Action on a request from Canyons School District for conditional use approval to construct a public facilities electronic display sign at Ridgecrest Elementary School; 1820 E 7200 S.

4.2 **(Project #LOT-17-002)**

Action on a request from Carl Greene to consolidate lots 10 and 11 of the Pheasant Wood Estates subdivision; 7768 S Pheasant Wood Dr.

4.3 **(Project #LOT-17-004)**

Action on a request from Benjamin Rivera to consolidate lot 1 of the Cottonwood Ridge Subdivision with three adjacent parcels; 6810 S Virginia Hills Dr.

4.4 Approval of minutes for July 5th, 2017

4.5 Approval of minutes for July 19th, 2017

4.6 Approval of minutes for August 2nd, 2017

5.0 **ADJOURNMENT**

On Friday, September 1st a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices, Cottonwood Heights, Utah. A copy of this notice was emailed to the Salt Lake Tribune and Deseret News, newspapers of general circulation in the City by the Office of the City Recorder. The Agenda was also posted on the City’s website at www.cottonwoodheights.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>

DATED THIS 1ST DAY OF SEPTEMBER, 2017

Paula Melgar, City Recorder

Planning Commissioners may participate in the meeting via telephonic communication. If a Commissioner does participate via telephonic communication, the Commissioner will be on speakerphone. The speakerphone will be amplified so that the other Commissioners and all other persons present in the room will be able to hear all discussions. In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify the City Recorder at (801)944-7021 at least 24 hours prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711. If you would like to submit written comments on any agenda item they should be received by the Planning Division no later than Tuesday at noon. Comments can be emailed to bberndt@ch.utah.gov. After the public hearing has been closed, the Planning Commission will not accept any additional written or verbal comments on the application.



Planning Commission
Meeting Date: September 06, 2017

**FILE NUMBER/
PROJECT NAME:** CUP-17-008

LOCATION: Ridgecrest Elementary School – 1820 E 7200 S (parcel #22-28-252-051)

REQUEST: Conditional use permit – 6’ electronic display monument sign

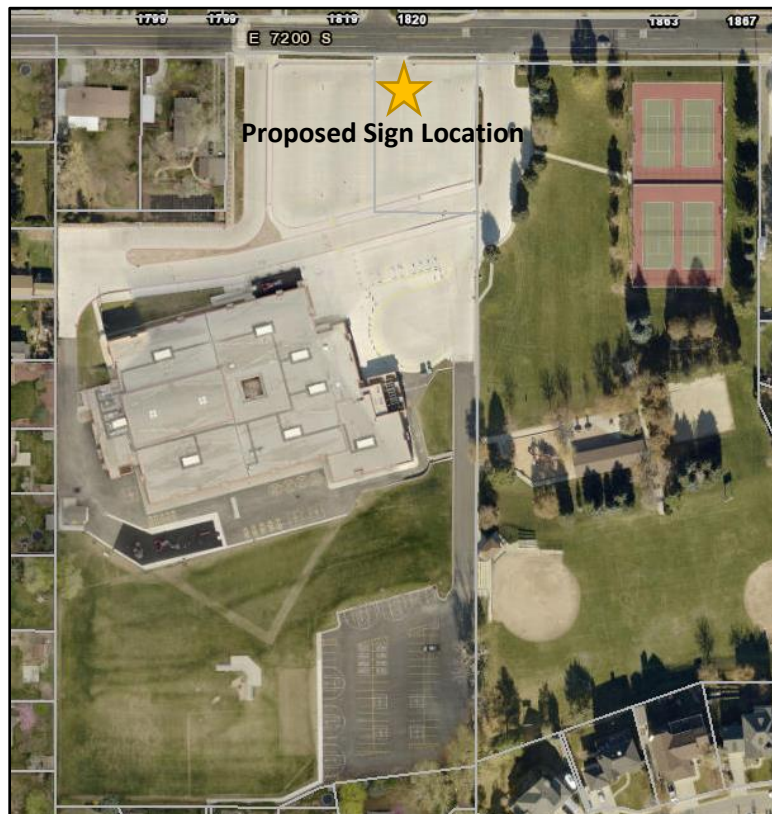
OWNER: Canyons School District

APPLICANT: Jake Thomas, Canyons School District (801-826-5157)

RECOMMENDATION: APPROVE, subject to conditions of approval

APPLICANT’S PROPOSAL

The applicant is requesting approval of a conditional use permit to construct a 6’ electronic display monument sign in the parking lot of Ridgecrest Elementary, located at 1820 E 7200 S. The planning commission will be reviewing the proposed electronic display sign for compliance with chapter 19.82 (Signs) of the Zoning Ordinance.



BACKGROUND

Zoning Ordinance

Public Facilities Zone (Chapter 19.43)

The subject property is located in the Public Facilities (PF) zone. Uses allowed in the PF zone include: public uses, quasi-public uses, agriculture, and accessory uses and buildings customarily incidental to permitted uses. The current use on the property, a public school, is considered a public use. The proposed electronic display sign is considered an accessory use incidental to the school.

Sign Ordinance (Chapter 19.82)

The proposed electronic display sign is considered a "Public Facility Electronic Display Sign," defined as follows in chapter 19.82.020:

"Public facility electronic display sign" or "PFEDS" means a monument sign or wall sign with an electronic display located in a PF (Public Facilities) zone.

19.82.100 provides the development standards and approval process for the construction of such electronic display signage. Any proposed PFEDS sign is subject to conditional use approval by the planning commission. Other applicable requirements are summarized as follows:

- Maximum size – 6' in height and no greater than 36 square feet;
- Text, image, and graphics must be static, without continuation on the next image. Messages requiring multiple signs to comprehend are prohibited;
- Text and images must be of a size and shape to not cause drivers to reduce speed or become unreasonably distracted in order to comprehend the message;
- Animation, full motion video, flashing, scrolling, strobing, racing, blinking, changes in color, fade-in/fade-out, or any other motion or imitation of motion is prohibited;
- Minimum dwell time for each message – 8 seconds;
- Maximum transition time between signs – 0.25 seconds (i.e. effectively instantaneous);
- A PFEDS must be equipped with a dimmer that controls brightness based on natural ambient light conditions;
- PFEDS may not be illuminated, lit, or operated between 11:00 pm and 6:00 am;
- Certification and testing required within 10 days of installation to verify compliance with all codes, conditions, and regulations.

The above list is a summary of ordinance 19.82.100, but is not comprehensive. The ordinance contains additional technical requirements for signage brightness, verification of compliance, etc.

Staff Analysis: The current proposed sign exceeds the maximum size allowed for a PFEDS monument sign. A recommended condition of approval has been included that the sign must not exceed 6' in height and 36 square feet in total size, per Chart 19.82.03-01 of the sign ordinance.

DEVELOPMENT PROPOSAL AND CONTEXT

Proposal Information:

- Maximum Size – 6' in height / 36 square feet in area

- Proposed Size – 6’ in height / 50 square feet in area
- Minimum Setback – 18 inches
- Proposed Setback – approximately 27’ to back of sidewalk / 37’ to street

Adjacent Uses:

- North – Single-Family Residential (R-1-8)
- South – Ridgecrest Elementary (PF zone & subject property)
- East – Antczak Park (PF zone)
- West – Single-Family Residential (R-1-8)

Noticing

Mailing notices were sent to all property owners within 1000’ of the subject property 14 days prior to the hearing

Attachments

1. Conditions of Approval & Findings
2. Sample Motions
3. Proposed Plans

CONDITIONS OF APPROVAL

1. The applicant shall reduce the overall size of the sign to comply with applicable provisions of chapter 19.82 (Signs) of the zoning ordinance, including chart 19.82.03-01;
2. The applicant shall comply with all public facilities electronic display signs (PFEDS) regulations, as found in chapter 19.82.100 of the zoning ordinance.

Findings

- The proposed public facilities electronic display sign shall comply with all applicable provisions of chapter 19.82 (Signs) of the zoning ordinance.

SAMPLE MOTIONS

Approval

I move that we approve project CUP-17-008, a request by Canyons School District, to construct and operate an electronic display monument sign on the property located at 1820 E 7200 S, subject to approved plans and all conditions of approval found in the staff report dated September 6th, 2017.

- List any additional conditions...
- List any additional findings...

Denial

I move that we deny project CUP-17-008, a request by Canyons School District, to construct and operate an electronic display monument sign on the property located at 1820 E 7200 S, based on the following findings:

- List findings for denial...

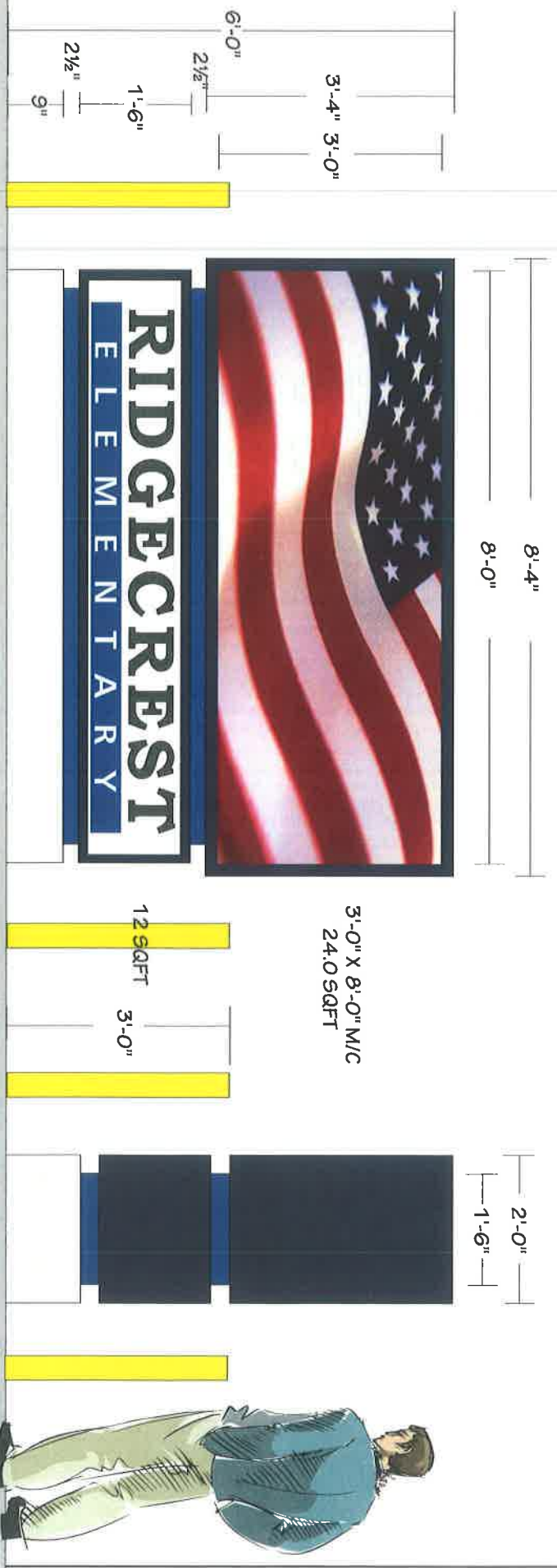
Sales Dept: _____ Designer: _____ Shop Production: _____ Install Manager: _____

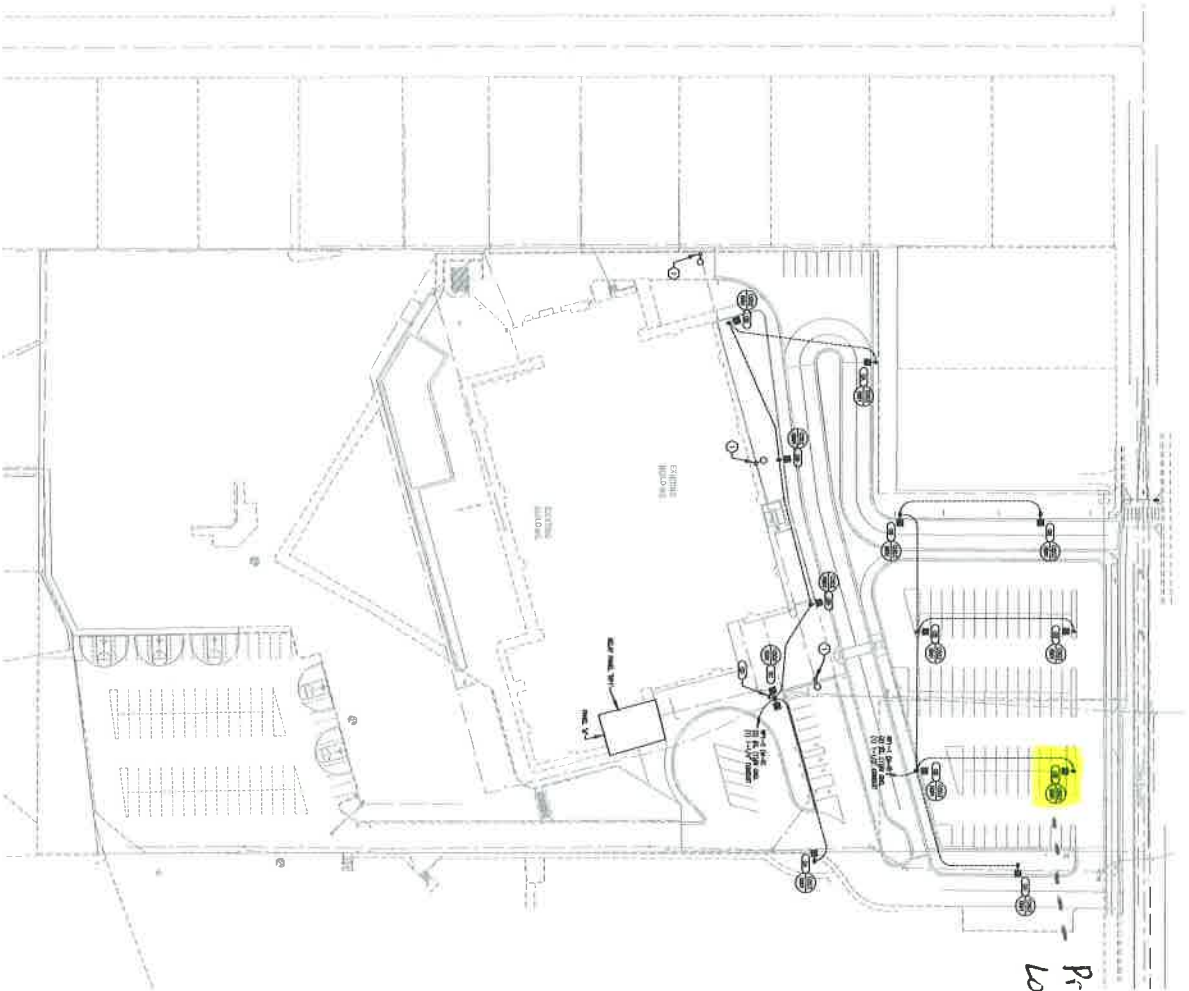
RIDGECREST ELEMENTARY

INT/ILLUM DOUBLE FACE MONUMENT DISPLAY W/ MESSAGE CENTER
MANUF. & INSTALL 1 EACH INT/ILLUM D/F MONUMENT DISPLAY
W/ RGB MESSAGE CENTER
CABINETS TO BE PAINTED BLACK
SCHOOL ID CABINET TO HAVE WHITE LEXAN FACES.
GRAPHICS TO BE DIGITALLY PRINTED ON FIRST SURFACE W/
UV PROTECTIVE VINYL OVERLAY
INT/ILLUM W/ WHITE L.E.D. LIGHTING.
MESSAGE CENTER TO BE A 16 MM RGB W/ A MATRIX OF 80 X 160.
M/C CABINET TO HAVE PERFORATED ALUMINUM ENDS FOR VENTILATION.
REVEALS TO BE PAINTED BLUE.
BASE TO BE PAINTED WHITE STUCCO.
PLACE BOLLARDS ON EACH SIDE FOR SIGN PROTECTION (4 EACH TOTAL).
INSTALL W/ DIRECT BURIAL EMBEDMENT IN PLACE OF REMOVED LIGHT POLE.



NEW DISPLAY TO GO IN PLACE OF EXISTING LIGHT POLE SCALE: 1/8" = 1'-0"





*Proposed Waigye
 Location*

SHEET KEYNOTES

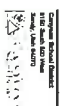
- 1. ALL ELECTRICAL WORK SHALL BE DONE IN ACCORDANCE WITH THE 2011 NATIONAL ELECTRICAL CODE (NEC) AND THE 2011 CALIFORNIA ELECTRICAL CODE (CEC).
- 2. ALL ELECTRICAL WORK SHALL BE DONE IN ACCORDANCE WITH THE 2011 NATIONAL ELECTRICAL CODE (NEC) AND THE 2011 CALIFORNIA ELECTRICAL CODE (CEC).



W. J. GIBSON
 ELECTRICAL ENGINEER
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The Canyon School District Board of Education
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Project Name
 Construction Documents
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E101

Ridgecrest Elementary

QST (Quality Systems Technology) 3' x 8' 16MM RGB LED. Through-hole pixel configuration RGB: 1 red, 1 green, 1 blue. Matrix 1' x 2' module, 40 pixels per module. Resolution 60 x 120, 21,600 pixels. Full color capability 281 trillion colors. Max. nits 11,000. View angle 140 degree. Serviceability front & rear.

Software: Novastar with time & temp probe, brightness scheduling control (with light sensor dimming & brightness software), programmable on/off feature (no photo cell or time clock required). Spare parts stocked locally, 4 hours software training, 2 year full parts and labor warranty, 5 year limited parts warranty.

EMC frame to be constructed from steel, painted MPC (Matthews Paint System).

All rivets counter sunk w/epoxy to be flush & painted to cover. Lower static cabinet to be aluminum constructed 1'-6" x 8'-0". Cabinet face to be 3/16" Lexan w/digital print on 3M vinyl w/3M UV laminate. Internal illumination to be LG L.E.D. lighting w/time clock to control illumination times.

Planning Commission Staff Report
Meeting Date: September 6, 2017



FILE NUMBER/
PROJECT NAME: LOT-17-002; Pheasant Wood Lot Consolidation

LOCATION: 7768 S. Pheasant Wood Dr.

REQUEST: Lot Consolidation of 2 Lots on Pheasant Wood Dr.

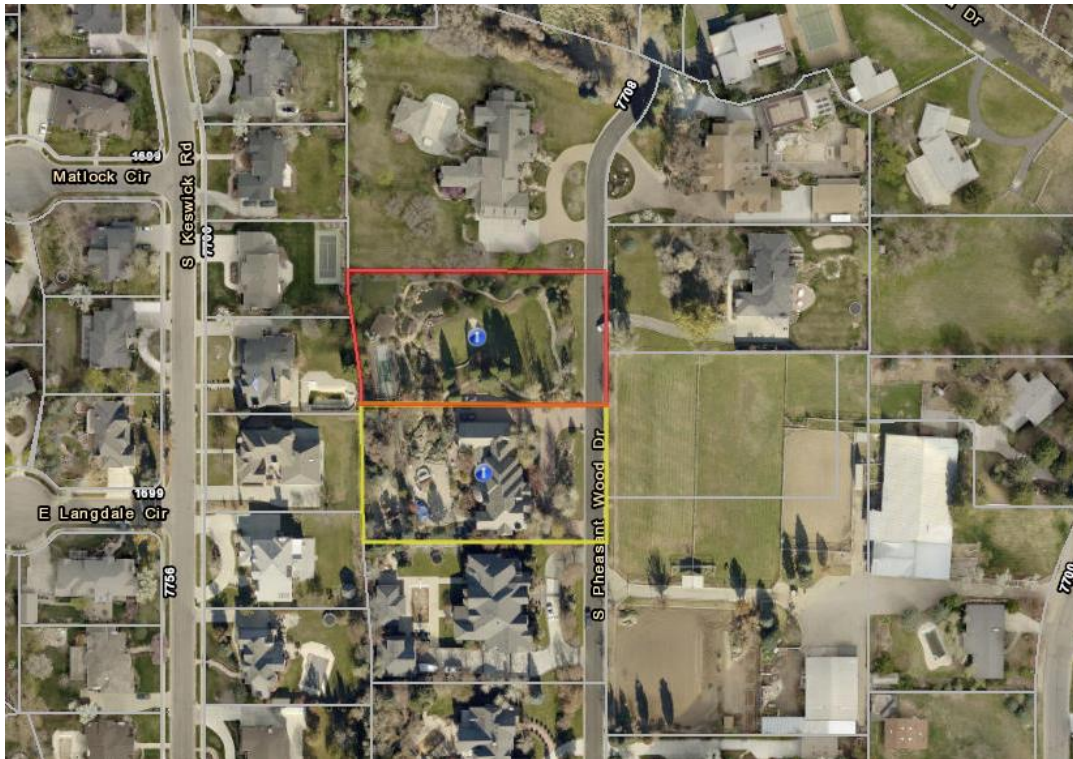
APPLICANT: Carl Greene (801-641-3894)

ENGINEER: McNeil Engineering

RECOMMENDATION: APPROVE subject to attached conditions of approval

APPLICANT'S PROPOSAL

The applicant is requesting approval of a lot consolidation of 2 existing parcels located on Pheasant Wood Drive, lots 10 and 11 of the Pheasant Wood Estates subdivision. This request, therefore, also constitutes an amendment to the Pheasant Wood Estates subdivision.



BACKGROUND

The current zoning designation of the subject property is RR-1-43 (Rural Residential Zone). The RR-1-43 zone allows low-density rural residential development, including single-family dwellings and customary accessory uses. The applicant has proposed the lot consolidation in order to increase the area of the lot suitable for accessory uses. The RR-1-43 zone requires a minimum lot size of 43,560 square feet. After consolidation, the proposed lot will be 2 acres, or 82,121 square feet. The minimum lot width required in the RR-1-43 zone is 100 feet. The proposed width after consolidation will be 307.56 feet, which is significantly more than the minimum requirement. The applicant does not propose any changes to existing easements.

Staff Analysis: The applicant's proposal meets the provisions of the R-1-43 zone.

Subdivision Ordinance

Title 12 of the Cottonwood Heights Municipal Code dictates the Planning Commission's role in subdivision plat approval. In particular, Planning Commission approval is necessary for amendments to existing subdivisions. Chapter 12.26.010 defines the approval process:

The planning commission may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

Analysis: Because the proposed lot consolidation will affect lots in an existing subdivision (Pheasant Wood Estates), a public hearing before the planning commission is required.

Noticing

Hearing notices were sent to property owners within 300' of the subject property, as required by ordinance.

CONTEXT

Adjacent Land Use

The property is adjacent to rural residential property (RR-1-43) to the north, south, and east, and rural residential (RR-1-21) to the west.

Attachments

1. Conditions of Approval
2. Sample Motions
3. Proposed Plat Amendment & Plans

Staff: Andy Hulka, Associate Planner, (801) 944-7065

CONDITIONS OF APPROVAL

1. The applicant shall work with staff to submit a preliminary plat and address any technical corrections, in compliance with all applicable city ordinance regulations;
2. The applicant shall obtain all necessary permits prior to constructing any new structure on the proposed lots;

Findings for approval:

- The proposed subdivision meets the applicable provisions of the Cottonwood Heights subdivision ordinance and the Cottonwood Heights zoning ordinance;
- Proper notice was given in accordance with local and state requirements;
- A public hearing was held in accordance with local and state requirements;

SAMPLE MOTIONS

Approval

I move that we approve project LOT-17-002, an application by Carl Greene, for approval of a lot consolidation and subdivision plat amendment of Lots 10 and 11 of the Pheasant Wood Estates subdivision, affecting the property located at 7768 S. Pheasant Wood Dr. including all conditions and findings found in the staff report dated September 6, 2017.

- List any additional conditions...
- List findings for additional conditions...

Denial

I move that we deny project LOT-17-002, an application by Carl Greene, for approval of a lot consolidation and subdivision plat amendment of Lots 10 and 11 of the Pheasant Wood Estates subdivision, affecting the property located at 7768 S. Pheasant Wood Dr. including all conditions and findings found in the staff report dated September 6, 2017.

- List findings for denial...

Planning Commission Staff Report
Meeting Date: September 6th, 2017



**FILE NUMBER/
PROJECT NAME:** LOT-17-004; Virginia Hills Lot Consolidation

LOCATION: 6810 S Virginia Hills Dr

REQUEST: Lot Consolidation of 4 lots on Virginia Hills Drive

APPLICANT: Jeff & Pam Thompson

ENGINEER: Benchmark Engineering

RECOMMENDATION: APPROVE subject to attached conditions of approval

APPLICANT'S PROPOSAL

The applicant is requesting approval of a lot consolidation of 4 existing parcels located on Virginia Hills Drive, including one lot (lot 16) in the Cottonwood Ridge Subdivision. This request, therefore, also constitutes an amendment to the Cottonwood Ridge Subdivision.



BACKGROUND

The current zoning designation of the subject property is R-1-8 (Residential Single-Family Zone). This zoning allows for the construction of one single-family dwelling on a property. The applicant is requesting a lot consolidation in order to construct an addition to their existing single-family dwelling. The R-1-8 zone requires a minimum lot size of 8,000 square feet. After consolidation, the proposed lot will be 0.928 acres, or 40,405 square feet. The minimum lot width in the R-1-8 zone is 70 feet. The proposed width after consolidation will be 155 feet. The applicant does not propose any changes to existing easements.

Staff Analysis: The applicant's proposal meets the provisions of the R-1-8 zone.

Subdivision Ordinance

Title 12 of the Cottonwood Heights Municipal Code dictates the Planning Commission's role in subdivision plat approval. In particular, Planning Commission approval is necessary for amendments to existing subdivisions. Chapter 12.26.010 defines the approval process:

The planning commission may, with or without a petition, consider any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot, or alley contained in a subdivision plat at a public hearing.

Analysis: Because the proposed lot consolidation will affect a lot in an existing subdivision (Cottonwood Ridge), a public hearing before the planning commission is required.

Noticing

Hearing notices were sent to property owners within 300' of the subject property, as required by ordinance.

CONTEXT

Adjacent Land Use

The property is adjacent to single-family residential property (R-1-8) in all directions.

Attachments

1. Conditions of Approval
2. Sample Motions
3. Proposed Plat Amendment & Plans

Staff: Andy Hulka, Associate Planner, (801) 944-7065

CONDITIONS OF APPROVAL

1. The applicant shall work with staff to address all technical corrections on the preliminary plat, in compliance with all applicable city ordinance regulations;
2. The applicant shall obtain all necessary permits prior to constructing any new structure on the proposed lots;

Findings for approval:

- The proposed subdivision meets the applicable provisions of the Cottonwood Heights subdivision ordinance and the Cottonwood Heights zoning ordinance;
- Proper notice was given in accordance with local and state requirements;
- A public hearing was held in accordance with local and state requirements;

SAMPLE MOTIONS

Approval

I move that we approve project LOT-17-004, an application by Jeff and Pam Thompson, for approval of a lot consolidation and subdivision plat amendment of Lot 16 of the Cottonwood Ridge subdivision, affecting the property located at 6810 Virginia Hills Dr, including all conditions and findings found in the staff report dated September 6, 2017.

- List any additional conditions...
- List findings for additional conditions...

Denial

I move that we deny project LOT-17-004, an application by Jeff and Pam Thompson, for approval of a lot consolidation and subdivision plat amendment of Lot 16 of the Cottonwood Ridge subdivision, affecting the property located at 6810 Virginia Hills Dr, including all conditions and findings found in the staff report dated September 6, 2017.

- List findings for denial...



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Mike Johnson, Senior Planner (801) 944-7060
Meeting Date: September 6, 2017
Subject: Proposed Ordinance Chapter – Accessory Dwelling units

REQUEST

At the direction of the City Council, staff is proposing a new zoning ordinance chapter for the purpose of regulating accessory dwelling units (such as basement apartments). The proposed ordinance provides a regulatory process to license and properly permit accessory dwelling units in single-family residential zones.

BACKGROUND

Accessory dwelling units are currently prevalent throughout the city, although they are not referenced and are therefore technically prohibited by code. The general purpose of this proposed ordinance is to ensure that accessory dwelling units are constructed in accordance with proper life safety standards and to add regulations to limit the impact of such units in residential areas. Standards for occupancy, parking, building standards, inspection, etc. are included in the proposed ordinance.

Staff will make a complete presentation of the current draft ordinance at the September 6, 2017 planning commission. The current draft ordinance is attached to this memo.

RECOMMENDATION

Staff recommends that the planning commission review the proposed Accessory Dwelling Unit ordinance, make any changes it feels necessary, and forward a recommendation to the City Council.

MODEL MOTIONS

Approval

I move that we forward a positive recommendation to the City Council for project ZTA-17-002, a city initiated request to create an Accessory Dwelling Unit (ADU) ordinance.

Denial

I move that we forward a negative recommendation to the City Council for project ZTA-17-002, a city initiated request to create an Accessory Dwelling Unit (ADU) ordinance, based on the following findings:

- List findings for negative recommendation...

Attachment:

- 08-15-2017 Draft Accessory Dwelling Unit Ordinance

Chapter 19.XX ACCESSORY DWELLING UNITS

Sections:

- 19.XX.010 Purpose.**
- 19.XX.020 Definitions.**
- 19.XX.030 Where Permitted.**
- 19.XX.040 Approval Process.**
- 19.XX.050 Development Standards.**
- 19.XX.060 Affidavit.**
- 19.XX.070 Inspection.**
- 19.XX.080 Termination.**

19.XX.010 Purpose.

Accessory dwelling units (ADUs) in single-family residential zones are an important tool in the overall housing goals and needs of the city, and allow for alternative and flexible housing options in owner-occupied single-family residences. The purposes of the ADU standards of this code are:

- A. Preserve and enhance life safety standards required for residential occupancy through the creation of a regulatory process for accessory dwelling units;
- B. Provide housing options for individuals and families in all stages of life and/or with moderate income who might otherwise have difficulty finding adequate housing within the city;
- C. Provide opportunities to offset rising housing costs and promote reinvestment in existing single-family neighborhoods;
- D. Preserve the character of single-family neighborhoods through adequate standards governing ADUs.

19.XX.020 Definitions.

“Accessory Dwelling Unit (ADU)” means a residential dwelling unit meant for one additional single family located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. A

mobile home or other portable structure does not qualify as an ADU.

“Attached ADU” means an ADU contained entirely within the footprint of the principal dwelling unit.

“Detached ADU” means an ADU located in an accessory building on the property and not attached to or within the principal dwelling unit

“Flag lot” means a lot not fronting on or abutting a public roadway and where access to the public roadway is limited to a narrow private right-of-way.

“Owner Occupancy” means a property owner, as reflected in title records, who makes his or her legal residence at the site as evidenced by voter registration, vehicle registration, driver’s license, county assessor records or similar means for at least 200 days per calendar year.

“Principal Dwelling Unit” means the primary home or dwelling unit on a property. For the purposes of this chapter, the gross floor area of a principal dwelling unit shall not include unfinished basements, decks, or carports.

“Short-term Rental” means the rental, letting of rooms or sub-leasing/renting of any structure, dwelling or portion thereof for occupancy, dwelling, lodging or sleeping purposes for at least three but not more than 30 consecutive days in duration.

19.XX.030 Where Permitted.

Attached and Detached ADUs are permitted in the city’s R-1 (single-family) and RR (rural residential) zones, following the approval process detailed herein;

19.XX.040 Approval Process

The approval process for ADUs in the city is as follows:

A. An attached ADU, meeting all provisions of this ordinance, may be allowed as a permitted use upon completion of an ADU application form and payment of applicable fees, property inspection, signed affidavit and any necessary building permits.

B. A detached ADU is allowed as a conditional use, accompanied by an ADU application form and payment of applicable fees, property inspection, signed affidavit, any necessary building permits, and any additional requirements deemed necessary by the planning commission, community and economic development director, or his/her designee.

19.XX.050 Development Standards.

A. The property owner, including titleholders and contract purchasers, must occupy either the principal dwelling unit or the approved ADU as his or her permanent residence and at no time receive rent for the owner-occupied unit. Application for an ADU shall include evidence of owner occupancy as provided in section 19.XX.020 of this chapter;

B. ADUs shall not be allowed as short-term rentals;

C. Only one ADU may be created per lot or property;

D. The design and size of the ADU shall conform to all current applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes. When a new ADU is proposed in an existing home, the entire ADU shall be brought up to all minimum standards, as inspected and approved by city staff;

E. The installation of separate utility meters is prohibited;

F. A separate entrance to an attached ADU shall not be permitted to be constructed in the front yard;

G. All ADUs shall require two (2) off-street parking spaces in addition to required parking for the principal dwelling unit. In no case shall fewer than four (4) total off-street parking stalls be provided for any property with an ADU;

H. All properties with ADUs shall have a minimum of 500 square feet of landscaping, consisting of at least two of the following: turf, trees, shrubs, and ground cover;

I. Detached ADUs shall be subject to the following additional development standards:

1. Any detached ADU shall be subject to all primary structure setback standards for the zone in which it is located.

2. Any detached ADU shall meet all accessory building standards for height, lot coverage, rear-yard coverage, size, and any other applicable standards for the zone in which it is located;

3. Any detached ADU on a flag lot shall meet primary structure flag lot setback standards for the zone in which it is located;

4. Conversion of existing accessory buildings to detached ADUs is only permitted if the structure meets or is modified to meet all current city standards and all applicable provisions of this chapter;

5. Any detached ADU shall be a permanent structure. Trailers, mobile homes, and other portable structures shall not be permitted as detached ADUs. The city's building official shall make the determination of whether or not a structure is permanent.

19.XX.060 Affidavit.

All applications for ADUs shall include a notarized affidavit, signed by the property owner of record, stating that said owner of record lives and will continue to live in either the principal dwelling unit or the approved ADU as his or her permanent residence. Prior to final approval of the ADU, the affidavit

shall be recorded against the property with the Salt Lake County Recorder. Change in ownership shall not require any additional public hearing, but shall require a new ADU application form, site inspection, and signed affidavit.

19.XX.070 Inspection.

A. Prior to final approval of an attached or detached ADU, all required building permits shall be completed by the applicant and inspected by the city's building inspector to verify that all applicable city standards have been met.

B. If no additional work is proposed, the applicant shall submit a minimum-fee building permit application, accompanied by an inspection by the city's building inspector, to ensure compliance with all applicable city standards.

19.XX.080 Termination.

If the owner of record on a property changes and is not accompanied by a new ADU application, or if the owner of record is no longer permanently residing in the principal dwelling unit, the ADU shall be immediately vacated, and shall no longer be used as an ADU.



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Mike Johnson, Senior Planner (801) 944-7060
Meeting Date: September 6, 2017
Subject: Proposed Zoning Ordinance – Wireless Telecommunications Facilities in the Public Rights-of-Way

REQUEST

Staff is proposing a an ordinance to provide a regulatory process for processing and reviewing applications for wireless telecommunications facilities in public rights-of-way, in addition to any provisions currently found in chapter 19.83 of the zoning ordinance.

BACKGROUND

The proposed ordinance has been drafted in response to shifting development trends in the wireless telecommunications industry. The purpose of the proposed ordinance is to establish requirements for the siting and modification of wireless telecommunications facilities in public rights-of-way.

The City Attorney will provide a complete presentation of the proposed ordinance at the September 6th, 2017 planning commission meeting.

RECOMMENDATION

Staff recommends that the planning commission review the proposed ordinance, make any changes it feels necessary, and forward a recommendation to the City Council.

MODEL MOTIONS

Approval

I move that we forward a positive recommendation to the City Council for project ZTA-17-003, a city initiated request to create ordinance chapter 19.83A (Wireless Telecommunications Facilities in the Public Rights-of-Way).

Denial

I move that we forward a negative recommendation to the City Council for project ZTA-17-003, a city initiated request to create ordinance chapter 19.83A (Wireless Telecommunications Facilities in the Public Rights-of-Way), based on the following findings:

- List findings for negative recommendation...

Attachment:

- 19.83A (Wireless Telecommunications Facilities in Public Rights-of-Way) Draft Ordinance

Chapter 19.83A

WIRELESS COMMUNICATION FACILITIES IN THE PUBLIC RIGHTS- OF- WAY

Sections:

- 19.83A.010 Definitions.**
- 19.83A.020 Scope; Applicability.**
- 19.83A.030 Purpose.**
- 19.83A.040 Operational standards.**
- 19.83A.050 Applications and submissions.**
- 19.83A.060 Non-substantial modifications.**
- 19.83A.070 Compliance with applicable law.**
- 19.83A.080 Standards for approval.**
- 19.83A.090 Design and implementation.**
- 19.83A.100 Related accessory equipment.**
- 19.83A.110 Lighting.**
- 19.83A.120 Noise.**
- 19.83A.130 Technical necessity exceptions.**
- 19.83A.140 Pruning trees and shrubs.**
- 19.83A.150 Damage to property; Notice of work; Repair and emergency work.**
- 19.83A.160 Erection, removal and common uses of poles.**
- 19.83A.170 Removal of unauthorized facilities; Failure to remove; Damages.**
- 19.83A.180 Insurance.**
- 19.83A.190 Indemnification.**
- 19.83A.200 Assignments or transfers of permit.**
- 19.83A.210 Violations; Revocation or termination of permit; Notice and hearing.**

19.83A.010 Definitions.

As used in this chapter:

A. “*Applicant*” means the person who applies for a permit, license, or other right under this chapter.

B. “*Antenna*” means any device used to transmit and/or receive radio or electromagnetic waves such as, without limitation, panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations; and exterior apparatus designed for telephone, radio or television communications through the sending and/or receiving of wireless communications signals.

C. “*Base station*” means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The definition of base station does not include or encompass a tower as defined in this chapter or any equipment associated with a tower. Base station does include, without limitation:

1. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the city, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including distributed antenna systems [“*DAS*”] and small-cell networks) that, at the time the relevant application is filed with the city under this chapter, has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

D. “*City*” means the city of Cottonwood Heights, Utah.

E. “*City code*” means the city's code of ordinances as amended from time to time.

F. “*Director*” means the city's director of community development.

G. “*Eligible facilities request*” means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station involving:

1. Co-location of new transmission equipment.

2. Removal of transmission equipment.

3. Replacement of transmission equipment.

H. “*Existing tower*” means [add definition].

I. “*Hazardous materials*” means any substance:

1. That is flammable, explosive, radioactive, toxic, corrosive, infectious, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board or instrumentality of the United States, the state of Utah or any political subdivision thereof;

2. That contains asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity or petroleum, including crude oil or any fraction thereof;

3. That is or becomes defined as a pollutant, contaminant, hazardous waste, hazardous substance, hazardous material or toxic substance under the Resource Conservation and Recovery Act, 42 U.S.C. § § 6901-6987; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § § 9601-9657; the Hazardous Materials Transportation Act, 49 U.S.C. § § 1801-1812; the Clean Water Act, 33 U.S.C. § § 1251-1387; the Clear Air Act, 42 U.S.C. § § 7401-7642; the Toxic Substances Control Act, 15 U.S.C. § § 2601-2655; the Safe Drinking

Water Act, 42 U.S.C. § § 300f-300j; the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § § 11001-11050; under title 19, chapter 6, Utah Code Annotated, as any of the same have been or from time to time may be amended; and any similar federal, state and local laws, statutes, ordinances, codes, rules, regulations, orders or decrees relating to environmental conditions, industrial hygiene or hazardous materials on the property, including all interpretations, policies, guidelines and/or directives of the various governmental authorities responsible for administering any of the foregoing, now in effect or hereafter adopted, published and/or promulgated;

4. The presence of which on the property requires investigation or remediation under any federal, state or local statute, regulation, ordinance, order, action, policy, or common law; or

5. The presence of which on the property causes or threatens to cause a nuisance on the property or to adjacent properties or poses or threatens to pose a hazard to the health and safety of persons on or about the property.

J. “*Owner*” means the person who owns a WCF or related accessory equipment, or the owner’s authorized representative.

K. “*Related accessory equipment*” means the transmission equipment customarily used with, and incidental to wireless communication facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

L. “*Right-of-way*” or “*ROW*” means the portion of a public roadway in the city dedicated to the purpose of conveying vehicle and pedestrian traffic, and other public use. This area includes, without limitation, all areas of pavement, sidewalk, and park strip between opposing property lines.

M. “*Significantly modify*” means a modification which is a substantial change.

N. “*Substantial change*” means a modification that substantially changes the physical dimensions of a pole, WCF, or related accessory equipment if it meets any of the following criteria:

1. For poles, it increases the height of the pole by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;

2. For any eligible support structure, it entails any excavation or deployment outside the current site;

3. For any eligible support structure, it would impair the concealment elements of the eligible support structure; or

4. For any eligible support structure, it does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in paragraphs 1, 2, and 3 of this subsection N.

5. For any eligible support structure, it does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or it does not comply with any relevant federal requirements.

6. For any WCF, if it creates a hazard to passersby, blocks traffic views in a manner which creates a hazard to users of the rights-of-way, including sidewalks, or makes a sidewalk inaccessible to disabled persons.

O. “*Telecommunications review group*” means the group comprised of the directors of the city departments of community development, public works, and the city attorney, or their designees, and others appointed from time to time by the city manager.

P. “Tower” means **[add definition]**.

Q. “WCF/wireless communications facility” means a facility used to provide personal wireless services as that term is defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the city code. A WCF includes an antenna or antennas, including without limitation directions, omni-directions and parabolic antennas, base stations, and support equipment poles. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or hand-held radios/telephones and their associated transmitting Antennas, nor does it include other facilities specifically excluded from the coverage of this Chapter.

R. “Zoning ordinance” means Title 19 of the city code.

19.83A.020 Scope; Applicability.

A. Applicability. This chapter and not chapter 19.83 shall apply to the construction, modification, removal and operation of WCFs installed in the ROW. All references to WCFs in this chapter shall refer only to WCFs in the ROW and not WCFs located anywhere outside of the ROW. No person shall install, construct, modify, or otherwise place any WCF within the ROW except pursuant to the provisions of this chapter.

B. Application required. Any person seeking to locate or modify a WCF in the ROW shall first submit an application and obtain a permit under this chapter, and shall provide to the city on an application form provided by or acceptable to the city containing information requested by the city sufficient, in the city’s reasonable discretion, to enable the city to make an informed determination regarding such permit.

C. License agreements. Applicants who enter into lease or license agreements with the city to locate, modify or co-locate WCFs on city-owned light, sign, traffic signal or other poles shall be required in those instruments to comply with the provisions of this chapter except as otherwise specifically approved by the city council by ordinance.

D. Compliance with chapter. All persons subject to this chapter shall:

1. At all times comply with all applicable statutes, laws, ordinances, and policies;
2. Upon the city's written request, promptly provide written confirmation sufficient for customary land survey purposes concerning location of WCFs;
3. Upon the city's written request, promptly provide city with accurate as-built maps and plans certifying location of facilities in paper copies and GIS-layer ESRI format (shape file or geographic database) with data about the physical aspects of each WCF required by the city, including without limitation the height of the WCF and related accessory structure, range of transmission, type of transmission (cellular, voice, data, wi-fi, etc.), nature of the pole or support, owner of the pole or support, and similar information;
4. Upon the city's written request, timely make available books, records, maps and other documents maintained with respect to facilities for inspection at reasonable times and places; and
5. Pay all applicable fees required by the city.

19.83A.030 Purpose.

A. The purpose of this chapter is to establish requirements for the siting and modification of WCFs in the ROW. This chapter is intended meet the following goals:

1. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible, including, but not limited to the following method: camouflage or stealth concealment, design techniques and placing equipment underground.

2. Provide for the managed development and installation, maintenance, modification, and removal of wireless communication infrastructure in the city with the fewest number of WCFs, without unreasonably discriminating against wireless communication providers' functionally equivalent services, including all those which install, maintain, operate, and remove WCFs.

3. Encourage the deployment of smaller, less intrusive WCFs to supplement existing, larger macrocell sites.

4. Encourage the deployment of WCFs primarily along major and minor arterials, and major and minor collectors, and limit the deployment of WCFs along local streets.

5. Encourage the location of WCFs in non-residential areas, in a manner that minimizes the total number of WCF support poles needed throughout the city.

6. Encourage the location of WCFs to utilize existing right-of-way corridors, and encourage antennas to be installed at street intersections.

7. Encourage co-location of WCFs on new and existing sites.

8. Encourage owners' antenna poles and other WCFs to locate them, to the extent possible, at places and in areas where the adverse impact on the community is minimized.

9. Enhance the ability of wireless communication service providers to provide services to the community quickly, effectively, and efficiently.

10. Effectively manage WCFs in the ROW.

B. Nothing in this chapter is intended to waive or limit the city's right to enforce or condition approval on compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to public health and safety.

19.83A.040 Operational standards.

A. Federal and state requirements. All WCFs shall meet the current standards and regulations of the United States Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal and Utah state governments with the authority to regulate WCFs. If such standards and regulations are changed, then the owners and users of the WCFs shall bring such facilities into compliance with such revised standards and regulations within the time period mandated by the controlling federal or state agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF facility at the owner's expense.

B. Radio frequency standards. If concerns or complaints regarding compliance with radio frequency emissions standards for a WCF have been communicated to the city, the city may require that the owner of the WCF provide information demonstrating compliance which the owner shall promptly provide. If the city reasonably determines that such information is not sufficient to demonstrate compliance, the city may require the owner of the WCF to submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and which compares the results with established federal standards. If, upon review, the city finds that the WCF does not meet federal standards, the city may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF at the owner's expense. Any reasonable costs incurred by the city, including reasonable costs paid to third party consultants to verify compliance with these requirements, shall be paid by the owner.

C. Signal interference. All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone, other WCFs, and other communication services utilized by nearby residential and non-residential properties. WCFs shall not interfere with any public safety communications except with the written approval or public safety agency whose communications are so effected. The applicant shall provide a written statement from a qualified radio frequency engineer, certifying that a technical evaluation of existing and proposed WCFs indicates no potential interference problems. The owner of the WCF shall allow the city to monitor interference levels with public safety communications during this process. The owner of a WCF also shall notify the city at least 14 calendar days before the introduction of new wireless service or changes in existing wireless service, and shall allow the city to monitor interference levels with public safety or other communications during the testing process. The owner shall not begin new service or change service of the WCF until the city has notified the owner that the WCF is acceptable, or the expiration of the 14 days, whichever occurs first.

D. Legal access. With all applications for WCFs, each applicant shall provide a letter of authorization from the owner of a pole or other facility on or in which the applicant proposes to locate its WCF granting said applicant the ability to process an application for or to locate a WCF on such pole or facility. Applicants shall also provide written documentation from the pole or other facility owner affirming that an agreement has been reached with the Applicant to allow for legal access to and from the pole or facility and to the Rocky Mountain Power or other electricity provider for electricity and other providers of facilities (such as fiber-optic) needed to operate and maintain the WCF, and an agreement between the parties showing which is responsible for removal of which facilities from a pole, in-ground box, or other facility event of an abandonment, termination or removal.

E. Operation and maintenance. To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes, state of Utah "blue-stakes" laws, and with the city's standards for construction activities in the ROW, all as most recently promulgated. If upon inspection the city concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then the owner shall have 30 days from the date of written notice from the city to bring such WCF into compliance. Upon good cause shown by the owner, the city may extend such compliance period not to exceed 90 days from the date of such notice. If the owner fails to either bring such WCF into compliance or to remove the WCF within that time period, then the city may remove such WCF at the owner's expense.

F. Abandonment and removal. If a WCF has not been in use for a period of three months, the owner of the WCF shall notify the city of the non-use, and shall indicate whether re-use is expected within the ensuing three months. Any WCF that is not operated for a continuous period of six months shall be considered abandoned. The city, in its sole discretion, may require that an abandoned WCF be removed. The owner of such WCF shall remove the same within 30 days of receipt of written notice from the city. If such WCF is not removed within said 30 days, the city may remove it at the owner's expense, and any approved permits for the WCF shall be deemed to have expired.

G. Hazardous Materials.

1. Hazardous materials shall not be used, stored, generated, released or disposed of in, on, about or from any WCFs or any property on which any WCF is located, except those necessary for the operations of the WCF and then only in accordance with all applicable laws governing such materials.

2. If an owner discovers that any spill, leak or release of any quantity of hazardous materials has occurred on, in or under any WCF, the owner shall promptly notify the city and all other

appropriate governmental agencies. If such release is caused by the owner, a lessee or permittee, then unless otherwise directed by the city the responsible party shall (or shall cause others to) promptly and fully investigate, cleanup, remediate and remove all such hazardous materials as may remain and so much of any portion of the environment as shall have become contaminated, all in accordance with applicable government requirements, and shall replace any removed portion of the environment (such as soil) with uncontaminated material of the same or better character as existed prior to contamination.

19.83A.050 Applications and submissions.

No new WCF shall be constructed and no initial location, co-location, or modification to any WCF may occur except after submission of a written request from an applicant, reviewed and approved by the city in accordance with this chapter. All WCFs shall be reviewed pursuant to the following procedures:

A. *Submittal requirements.* In addition to an application form signed by an authorized official or employee of an applicant, signal interference letter, and required submittal fees, each applicant shall submit the following documents in a form acceptable to the city:

1. An accurately scaled site plan of all of applicant's facilities in paper and GIS-layer ESRI format (shape file or geographic database) with data about the physical aspects of each WCF required by the city, including but not limited to height of the WCF, range of transmission, type of transmission (cellular, voice, data, wi-fi, etc.), nature of the pole or support, owner of the pole or support, and similar information;
2. Photo simulation of all new WCFs, co-locations, and modifications of existing WCFs;
3. A scaled elevation view and other supporting accurate drawings, calculations, and other documentation of the proposed WCF;
4. Documentation showing the financial and technical ability and legal capacity of the applicant to perform the work requested and to operate and maintain the facilities for longer than one year;
5. Letters, agreements, or other documents showing permissions to locate WCFs on the poles or in facilities of other owners;
6. Letters, reports or memoranda signed by appropriate qualified professionals where reasonably required by the city, showing the location and dimension of all improvements, including information concerning topography, radio frequency coverage, pole height, setbacks, drives, parking, fencing, landscaping, adjacent uses, drainage, and other information deemed by the director to be necessary to assess compliance with this chapter.

B. *Inventory of existing sites.*

1. Each applicant for a WCF shall provide to the director a narrative and map description of all of the applicant's existing or proposed WCFs within the city, and outside of the city within one mile of its boundaries, whether in or out of the ROW. In addition, the applicant shall inform the city generally of the areas of the city in which it believes WCFs may need to be located within the next three years. The three-year plan should identify the site name, site address, and a description of the facility (e.g., rooftop antennas and ground-mounted equipment). This three-year plan is not intended to be a requirement that the applicant submit its business plan, proprietary information, or that it make commitments regarding locations of WCFs within the city. Rather, it is an attempt to provide a mechanism for the city and all applicants for WCFs to share information, assist in the city's comprehensive planning process, and promote co-location by identifying places where WCFs might be appropriately constructed for multiple WCF owners.
2. The director may share such information with other applicants applying for administrative approvals or permits under this chapter, or other organizations seeking to locate

WCFs within the city, provided that the director is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

C. Applications for new poles. Each application to erect a new pole in the ROW shall be reviewed by the director for conformance to this chapter and zoning ordinance using the site plan review procedures set forth in section 19.83.040 of the city code. Should the director consider the proposed WCF to have a significant visual impact (e.g., due to proximity to historic or aesthetically significant structures, views, and/or community features), or otherwise be incompatible with the structure or surrounding area, or not meet the intent of these provisions, the director may refer the application to the telecommunications review group for approval. All applications for new poles shall demonstrate the necessity for the new pole and that other alternative design options such as base stations outside of the ROW or use of existing poles are not viable options in order for the applicant to effectively provide wireless services.

D. Additional review procedures for co-locations and modifications.

1. Application. The city shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the city to consider whether an application for co-location or modification is an eligible facilities request. Such information may include, without limitation, whether the project:

- (a) Would result in a substantial change; and/or
- (b) Violates a generally applicable law, regulations, or other rule reasonably related to public health and safety.

The application may not require the applicant to demonstrate a need or business case for the proposed modification or co-location.

2. Type of review. Upon receipt of an application for an eligible facilities request pursuant to this chapter, the director shall review such application to determine whether the application so qualifies.

3. Timeframe for review. Subject to the tolling provisions of subparagraph (4) below, within 60 days after the date on which an applicant submits an application seeking co-location or a non-substantial change approval under this chapter, the city shall approve the application unless it determines that the application is not covered by this chapter or that it is a substantial change.

4. Tolling of the timeframe for review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the city and the applicant, or in cases where the director determines that the application is incomplete.

(a) To toll the timeframe for incompleteness, the city must provide written notice to the applicant within 30 days after receipt of the application, specifically delineating all missing documents or information required in the application;

(b) The timeframe for review begins running again when the applicant makes a supplemental written submission in response to the city's notice of incompleteness; and

(c) Following a supplemental submission, the city will notify the applicant within ten days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subparagraph (4)(a). In the case of a second or subsequent notice of incompleteness, the city need not specify missing documents or information that were not delineated in the original notice of incompleteness.

5. Failure to act. If the city fails to act on a request seeking approval for an eligible facilities request under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant becomes effective when the applicant notifies the city in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

6. Interaction with Telecommunications Act Section 332(c)(7). If the city determines that the applicant's request is not an eligible facilities request as defined in this chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's "shot clock" order, will begin to run from the issuance of the city's decision that the application is not a covered request. To the extent such information is necessary, the city may request additional information from the applicant to evaluate the application under Section 332(c)(7) .

7. Decision. Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing and supported by substantial evidence in a written record. The applicant shall receive a copy of the decision.

19.83A.060 Non-substantial modifications.

A modification to existing WCFs or related accessory equipment that is not substantial shall be allowed without a permit but shall still comply with Sections 19.83A.060 and 19.83A.190 of this chapter.

19.83A.070 Compliance with applicable law.

A. Compliance; requirements. Notwithstanding the approval of an application for co-location or non-substantial change as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the city code, the zoning ordinance, and any other applicable regulations. In addition, all WCFs shall be operated and maintained in compliance with the following requirements:

1. Comply with any applicable permit or license issued by a local, state, or federal agency with jurisdiction over the WCF;

2. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;

3. Be maintained in good working condition and to the standards established at the time of application approval or as required by federal or state law pursuant to subsection 19.83A.040(A); and

4. Remain free from trash, debris, litter, graffiti, and other forms of waste and vandalism. Any graffiti shall be removed or painted over, and any damage shall be repaired as soon as practicable, and in no instance more than ten calendar days from the time of notification by the city or after discovery by the owner of the WCF.

B. Compliance report. Upon request by the city, the applicant shall provide a compliance report within 45 days after installation of a WCF, demonstrating that as installed and in operation the WCF complies with all conditions of approval, applicable city ordinances and applicable regulations.

19.83A.080 Standards for approval.

It is the intent of the city to provide for approval of WCFs administratively in cases where visual impacts are minimized, view corridors are protected, WCFs utilize appropriate stealth design techniques to avoid adverse impacts on the surrounding area, and WCFs are designed, maintained, and operated at all times to comply with the provisions of this chapter and all applicable law. Notwithstanding the approval of an application for co-location as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building and safety requirements as set forth in the city code, the zoning ordinance, and any other applicable regulations. WCFs shall be evaluated for approval subject to the

criteria set forth in this chapter. In determining an applicant's ability and willingness to meet the requirements of this chapter, the city may also consider the following matters:

- A. The applicant's record of complying with laws, ordinances, and agreements in the city and elsewhere;
- B. The extent of damage to or disruption of any public or private facilities, improvements, services, travel, or landscaping, and any plans by applicant to mitigate or repair the same; and
- C. The availability or unavailability of alternate poles or other sites to those proposed by the applicant.

19.83A.090 Design and implementation.

A. Siting and design. WCFs and related facilities shall meet the following requirements unless the applicant can clearly show with evidence and the director or the telecommunications review group finds that applicant cannot effectively implement its WCF system otherwise.

B. Stealth implementation.

1. Construction of WCFs and any related accessory equipment must utilize stealth implementation meeting the provisions of this chapter. A WCF employs stealth design or implementation when it:

- (a) Is integrated harmoniously into an outdoor fixture such as a light pole in a manner which minimizes or eliminates visual impact, avoids notice, or is not readily apparent; or
- (b) Uses design which mimics and is consistent with the nearby natural or architectural features or replaces existing facilities so that the presence of the WCF is not readily apparent.

2. Stealth implementation includes the following methods of implementation, which shall be required of all WCFs and related facilities that are placed in the ROW.

C. Additional requirements. All WCFs shall comply with the following requirements, subject to being overridden under Section 19.83A.130:

1. Height of the combined pole and antenna, including after a change or co-location under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 1996, as measured from the base of the pole (including any concrete or other support) will be limited to 30 feet along local streets, and will be limited to 40 feet along major and minor collector streets, and major and minor arterial streets. The 40-foot height restriction may be exceeded only with a technical necessity exception provided and paid for by the applicant. Approval of the height exception will be subject to review and approval by the telecommunications review group.

2. WCFs shall be located no closer to the nearest building than the combined height of the pole and antenna.

3. The antenna shall be no taller than eight feet in height above the top of the pole.

4. Power to the pole must come through the base of the pole.

5. WCF facilities must, to the greatest extent practicable, use existing poles and other infrastructure, including street signs, light poles, traffic lights, and other similar infrastructure. No stand-alone WCF antennas will be allowed unless it is demonstrated by competent evidence presented to the director or the telecommunications review group that no existing infrastructure can practically meet an applicant's needs in connection with applicant's network.

6. Seams, bolts/screws, antenna and shroud assembly shall be fabricated and installed in a manner so as to reduce visibility.

7. Light poles must be constructed of metal. Other new poles may be constructed of metal or a material which when painted or otherwise finished looks like metal, such as fiberglass. New wood poles will not be allowed. Existing wood poles may be required to be painted or repainted to match surrounding light pole colors. Antennas and all equipment including mounting mechanisms must be painted and repainted to match the pole. The city may require that new

poles comply with standards for construction, size and appearance adopted by the city from time to time.

8. Co-location is strongly encouraged for all WCF facility sites where feasible. Where an applicant can demonstrate to the telecommunications review group that co-location is not feasible, co-location will not be required.

9. Where feasible, WCF facilities shall be located at the corner of street intersections. Other locations will be allowed if an applicant clearly demonstrates to the director or the telecommunications review group that a corner location is not feasible.

10. No portion of any WCF may extend beyond the ROW.

11. New poles and all WCFs shall be required to be designed and constructed to permit the pole or other support facility to accommodate WCFs from at least two wireless service providers on the same pole or WCF, unless the city approves an alternative design or unless the applicant clearly demonstrates that doing so is not practical or feasible. Co-location of WCFs shall be allowed by the owners of WCFs except where impracticable.

12. To the extent reasonably feasible, each WCF shall be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles on the same pole and near the proposed WCF;

13. Each WCF shall be sited to minimize the negative aesthetic impacts to the ROW;

14. Each WCF shall be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be materially altered;

15. Each WCF shall be designed such that all antennas, mast arms, equipment, and other facilities are sized and located to minimize visual clutter;

16. Equipment boxes and ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the director, and shall be installed in a flush-to-grade or underground equipment vault; and

17. No WCF or related accessory equipment shall alter vehicular circulation or parking within the ROW or impede vehicular, bicycle, or pedestrian access or visibility along the ROW. No WCF may be located or maintained in a manner that causes unreasonable interference. "*Unreasonable interference*" means any use of the ROW that disrupts or interferes with its use by the city or operation of city improvements, use by the general public, or other person authorized to use or be present upon the ROW, when there exists a reasonable alternative that would result in less disruption or interference. Unreasonable interference includes any use of the ROW that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety or welfare; and

18. Wherever reasonably possible, location or relocation of WCFs and related accessory equipment shall be accomplished concurrently with other users of the ROW in order to minimize disruption. Facilities shall be installed within existing underground ducts or conduit whenever capacity permits.

19.83A.100 Related accessory equipment.

All related accessory equipment for a WCFs shall meet the following requirements:

A. All shall be placed on or inside of poles where it meets stealth requirements, or placed underground or flush mounted to ground level. Cabinets and other accessory components which cannot feasibly be placed underground shall be grouped as closely as reasonably possible and camouflaged to the extent reasonably possible unless otherwise approved by the director or the telecommunications review group;

B. The total footprint on or under the ground of the WCF shall not exceed six square feet; and

C. No related accessory equipment or accessory structure shall exceed 30 inches in height, unless placed on or inside of poles.

19.83A.110 Lighting.

Unless required by the Federal Aviation Administration or other applicable governmental authority, WCFs shall not be artificially lit except in cases in which the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the city may review the available lighting alternatives and approve the design that would cause the least disturbance to the nearby properties and surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences. No visible flashing indicator lights or similar devices will be allowed in the ROW, unless part of existing light poles where lighting is an intended use, and unless such flashing lights or similar devices are part of the normal lighting program for such facilities, unless otherwise approved by the director for good cause.

19.83A.120 Noise.

Noise generated at the site of a WCF must not exceed the levels permitted by city or Salt Lake County ordinances, except that a WCF owner may, when necessary, exceed such standards for a reasonable period of time during installation, removal and repairs, not to exceed two hours in any day without prior authorization from the city.

19.83A.130 Technical necessity exceptions.

A. General. If an applicant cannot meet the requirements of sections 19.83A.090 and 19.83A.100 of this chapter because of technical incapability or significant impracticability (“*technical reasons*”), an applicant may request a technical necessity exception, which may be granted by the telecommunications facilities group, provided that even where a technical necessity exception is allowed, the applicant shall meet the requirements of Sections 19.83A.090 and 19.83A.100 to the greatest extent feasible. If an applicant cannot or will not meet those standards for reasons other than technical reasons, the use shall be denied.

B. New poles.

1. No new poles shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the telecommunications review group that it needs a technical necessity exception and that locating antennas or other WCFs on existing poles or co-locating with existing WCFs or related accessory facilities will not meet the applicant’s reasonable communication needs. Evidence submitted to make such demonstration may consist of, without limitation, the following:

(a) Evidence clearly establishing that no existing poles with a suitable height are located within the geographic area required to meet the applicant's engineering requirements even if applicant increases the number of poles and antennas it uses;

(b) Evidence clearly establishing that existing poles do not have sufficient structural strength to support applicant's proposed WCF;

(c) Evidence clearly establishing that the applicant's proposed WCFs would cause electromagnetic interference with the WCFs on the existing WCFs or that the existing WCF would cause interference with the applicant's proposed WCF; and

(d) Evidence clearly establishing that there are other limiting factors that render existing poles, cabinets and other WCFs on or in which applicant might co-locate unsuitable for co-location.

2. Any poles erected anywhere other than at the intersections of streets shall be centered between trees where practicable, but shall be no closer than ten feet from any tree in the ROW.

19.83A.140 Pruning trees and shrubs.

If an owner or its contractor reasonably determines that trees and vegetation in the ROW materially interfere with the installation, maintenance, or removal of applicant's WCFs or related accessory equipment need trimming, it shall notify the city's public works department that such trimming or pruning is requested, which request shall be done with sufficient specificity for the city's crews to assess the need to perform the work. If the trees or vegetation unreasonably interfere with the applicant's needed installation, removal or maintenance of such facilities, and has not been completed by the city within 15 days after such request, then the owner may by its own qualified employees or contractor perform the needed work, provided that it first give at least three business days' written notice to the city's public works department detailing the work it intends to do with respect to each tree or shrub, and provided that the public works department does not reply with a written objection before the end of the three-day period. The public works department may allow such trimming and pruning on less notice when the need to trim a tree or vegetation is due to an emergency, or is urgently needed in order to repair a WCF or related accessory equipment which is seriously damaged or is not operating properly. All pruning and trimming performed by or for an owner shall comply with the city ordinances and the American National Standard for Tree Care Operation (ANSI A300) and Best Management Practices: Utility Pruning of Trees, and be conducted under the direction of an arborist certified with the International Society of Arboriculture.

19.83A.150 Damage to property; Notice of work; Repair and emergency work.

A. Damage to property. No applicant for or owner of any WCF or related accessory or anyone acting on such person's behalf shall take any action or permit any action to take place which may impair or damage any ROW or the property of another located in, on, or adjacent thereto.

B. Notice of work. Unless otherwise provided in a permit, no person or anyone acting on such person's behalf shall commence any non-emergency work in or about the ROW without giving at least ten days' prior written notice to the city's public works department and owners of any adjacent private property likely to be affected by such work. The public works department may develop a procedure for dispensing with such notice in situations where the impact of the work to be performed is not material.

C. Repair and emergency work. In the event of an unexpected and urgently needed repair or emergency, an owner may commence repair or emergency work as reasonably required under the circumstances, provided written notice detailing the work to be performed, how it is likely to affect the city, the public using the ROW, and the adjacent or nearby owners is given to the city and affected property owners as completely and promptly as possible.

19.83A.160 Erection, removal and common uses of poles.

No poles shall be erected within the ROW without the city's prior written approval specifying the approved location, height, types, and any other pertinent aspect of such structures. The location of any approved pole shall not constitute or be a vested interest, and such poles or

structures shall be removed or modified by the owner at the owner's expense whenever the city determines that the public convenience or necessity would be enhanced thereby.

19.83A.170 Removal of unauthorized facilities; Failure to remove; Damages.

A. Removal of unauthorized facilities. A person subject to this chapter shall at its sole expense remove any facilities from the ROW within 45 days after written notice from the city following the occurrence of any of the following events:

1. Termination or expiration of such person's permit;
2. Abandonment of a facility within the ROW;
3. The facility having been constructed or located without the prior grant of a permit, or constructed or located at a location or in a manner not so permitted; or
4. Circumstances reasonably determined by the city to be inconsistent with public health, safety, or welfare.

B. Failure to remove or relocate. If any person subject to this chapter who owns, controls, or maintains any unauthorized facilities within the ROW fails to remove or relocate any facilities as required in this chapter, the city may cause such removal or relocation and charge the owner for the costs incurred.

C. Emergency removal or relocation of facilities. The city reserves the right to cut, alter, remove, or relocate any facilities located within the ROW as necessary in the event of a public health or safety emergency.

D. Damages to facilities by city. The city shall not be liable for any damage or destruction of any WCF or related accessory facility damaged by the city or its contractors or agents that was not relocated or removed by the owner within the time required by the city.

19.83A.180 Insurance.

A. Unless specifically agreed to by the city after evaluating the risk, a person subject to this chapter shall secure and maintain in force the following liability insurance policies (or evidence of self-insurance satisfactory to the city):

1. \$1,000,000 dollars for personal injury or death to any one person and \$3,000,000 aggregate for personal injury or death per single accident or occurrence.
2. \$1,000,000 for property damage to any one person and \$3,000,000 aggregate for property damage per single accident or occurrence.
3. \$1,000,000 for all other types of liability including claims for damages for invasion of the right of privacy; for defamation of any person, firm, or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark or patent; or for damage to any other person, firm, or corporation arising out of or alleged to arise out of failure to comply with the provisions of any statute, regulation or resolution of the United States, state of Utah, or any local agency with jurisdiction.

B. The city may at its option review all insurance coverage. If it is determined by the city risk manager that circumstances require and that it is reasonable and necessary to increase insurance coverage and liability limits to adequately cover the risks of the city, the city may require additional insurance to be acquired. The city shall provide written notice should the city exercise its right to require additional insurance. Without limiting the foregoing, the insurance coverage limits in subsection (A) of this section shall be increased from time to time promptly following written notice from the city in connection with, *inter alia*, increases in the limitation of judgments amounts under the Utah Governmental Immunity Act, UTAH CODE ANN. 63F-7-101 *et seq.*

C. Such insurance shall specifically name as additional insured the city, its officers, volunteers and employees, and shall further provide that the policy shall not be modified or canceled during the life of the permit without giving at least 30 days' written notice to the city.

D. A person subject to this chapter shall file with the city copies of all certificates of insurance showing up-to-date coverage, additional insured coverage, and evidence of payment of premiums as set forth above. Coverage shall not be changed or canceled without approval of the city, and failure to maintain required insurance may be considered a breach of this agreement.

19.83A.190 Indemnification.

A. A person subject to this chapter shall, at its sole expense, fully indemnify, defend and hold harmless the city and its officers, employees and agents from and against any and all claims, suits, actions, liability and judgments for damage or otherwise (except those arising from the sole negligence on the part of the city, its employees or agents):

1. For actual or alleged injury to persons or property, including loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed, in any way arising out of or through or alleged to arise out of or through the acts or omissions of such person or its officers, agents, employees, or contractors or to which such person or its officers', agents', employees' or contractors' acts or omissions in any way contribute, and whether or not such acts or omissions were authorized or contemplated by the permit or applicable law;

2. Arising out of or alleged to arise out of any claim for damages for such person's invasion of the right of privacy, defamation of any person, firm or corporation, or the violation of infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation; and/or

3. Arising out of or alleged to arise out of such person's failure to comply with the provisions of any statute, regulation or applicable policy of the United States, state of Utah or any local agency applicable to such person in its business.

B. Nothing herein shall be deemed to prevent the city, its officers, or its employees from participating in the defense of any litigation by their own counsel at such parties' expense. Such participation shall not under any circumstances relieve a person subject to this chapter from its duty of defense against liability or of paying any judgment entered against the city and/or its officers, employees or agents.

19.83A.200 Assignments or transfers of permit.

The city reserves the right to require in any permit that ownership or control of a person subject to this chapter shall not, directly or indirectly, be transferred, assigned, or disposed of by sale, lease, merger, consolidation or other act of such person, by operation of law or otherwise without the prior written consent of the city, which consent the city may withhold or condition in its reasonable discretion.

A. No transfer prior to construction. Absent extraordinary and unforeseeable circumstances, no permit shall be assigned or transferred before construction of the facilities has been completed.

B. Information required prior to transfer. A permittee and the proposed assignee or transferee shall provide and certify the following to the city not less than 120 days prior to the proposed date of transfer:

1. Complete information setting forth the nature, terms and conditions of the proposed assignment or transfer;

2. All information otherwise reasonably required by the city of a permit applicant under this chapter with respect to the proposed assignee or transferee;

3. Any other information reasonably required by the city; and
4. An application fee which shall be set by the city, plus any other costs actually and reasonably incurred by the city in processing and investigating the proposed assignment or transfer.

C. Transferee requirements. No transfer shall be approved unless the assignee or transferee has at least the legal, technical, financial, and other requisite qualifications to carry on the activities of the permittee granted hereunder, as reasonably determined by the city.

D. Transfer void without city approval. Any transfer or assignment of a permit without the prior written consent of the city as set forth herein shall be void and shall result in revocation of the existing permittee.

E. Transfers affecting control. Any transactions which singularly or collectively result in change of 50 percent or more of the ownership or working control of the permittee, or of the ownership or control of affiliated entities which have ownership or working control of the permittee, or of control of the capacity or the facilities or substantial parts thereof of the permittee shall be considered an assignment or transfer requiring city approval. Transactions between affiliated entities are not exempt from city approval; however, a transfer by a permittee to another person or entity controlling, controlled by, or under common control with the permittee shall not require city approval, provided notice thereof is timely provided to the city. Approval shall not be required for mortgaging purposes.

19.83A.210 Violations; Revocation or termination of permit; Notice and hearing.

A. Violation. Any unauthorized installation prior to obtaining a permit, approval of an applicant's master plan, and other related requirements of the city may be grounds for denial of an application or other sanctions allowed by law.

B. Revocation or termination of permit. A permit granted hereunder may be revoked for the following reasons:

1. Construction or operation in the city without a permit or in violation of the requirements of a permit;
2. Construction or operation at an unauthorized location;
3. Unauthorized transfer of control of the person subject to this chapter;
4. Unauthorized assignment of a permit;
5. Unauthorized sale, assignment or transfer of all of a permittee's assets, or a substantial interest therein;
6. Misrepresentation or lack of candor by or on behalf of a person in any application upon which the city relies in making any decision herein;
7. Abandonment of facilities in the public ways without timely removal and restoration as required by law;
8. Failure to relocate or remove facilities as required in this chapter;
9. Failure to pay taxes, compensation, fees or costs when and as due;
10. Insolvency or bankruptcy of the permittee;
11. Violation of material provisions of this chapter; or
12. Violation of the material terms of a permit.

C. Notice and duty to cure. If the city reasonably believes that grounds exist for revocation of a permit, the city shall give the person subject to this chapter written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing such person a reasonable period of time not exceeding 30 days to furnish evidence:

1. That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.
2. That rebuts the alleged violation or noncompliance.
3. That it would be in the public interest to impose some penalty or sanction less than revocation.

D. Department action and hearing. If a person who holds a permit fails to provide evidence reasonably satisfactory to the city that a violation has not occurred, or fails to timely cure a violation, then the city may terminate the permit or take other reasonably necessary action based on the provisions of this chapter.

E. Standards for revocation or lesser sanctions. In determining whether a person subject to this chapter has violated or failed to comply with material provisions of this chapter or of a permit, the city shall determine the appropriate action to take considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

1. Whether the misconduct was egregious;
2. Whether substantial harm resulted;
3. Whether the violation was intentional;
4. Whether there is a history of prior violations of the same or other requirements;
5. Whether there is a history of overall compliance; and
6. Whether the violation was voluntarily disclosed, admitted or cured.



MEMORANDUM

To: Cottonwood Heights Planning Commission
From: Mike Johnson, Senior Planner (801) 944-7060
Meeting Date: September 6, 2017
Subject: Proposed Text Amendment to Chapter 19.83, Wireless Telecommunication Facilities

REQUEST

Staff is proposing a text amendment to chapter 19.83 (Wireless Telecommunications Facilities) of the city's zoning ordinance. Changes are being proposed to add allow additional options for installing wireless antennas on utility poles in the Public Facilities zone.

BACKGROUND

The current ordinance allows for the installation of wireless telecommunications antennas on utility poles in the public right-of-way or in a rear-yard utility easement. The proposed amendment adds additional language to allow such facilities on utility poles on any portion of a property in the Public Facilities zone. Examples would include antennas on light-poles or flag poles that are not necessarily located in either the right-of-way or a rear-yard utility easement.

Staff will provide a complete presentation of the proposed text amendment at the September 6th, 2017 Planning Commission meeting.

RECOMMENDATION

Staff recommends that the planning commission review the proposed ordinance amendment, make any changes it feels necessary, and forward a recommendation to the City Council.

MODEL MOTIONS

Approval

I move that we forward a positive recommendation to the City Council for project ZTA-17-004, a city initiated request to amend chapter 19.83 (Wireless Telecommunications Facilities) of the Cottonwood Heights zoning ordinance.

Denial

I move that we forward a negative recommendation to the City Council for project ZTA-17-004, a city initiated request to amend chapter 19.83 (Wireless Telecommunications Facilities) of the Cottonwood Heights zoning ordinance, based on the following findings:

- List findings for negative recommendation...

Attachment:

- 08-16-2017 Draft Amendment of Chapter 19.83 (Wireless Telecommunications Facilities)

**Chapter 19.83
WIRELESS
TELECOMMUNICATIONS
FACILITIES**

Sections:

- 19.83.010 Purpose.**
- 19.83.020 Definitions.**
- 19.83.030 Applicability; Exceptions.**
- 19.83.040 Site location master plan.**
- 19.83.050 Allowable uses.**
- 19.83.060 General provisions applicable to wireless telecommunication facilities.**
- 19.83.070 Facility types and standards.**
- 19.83.080 Sites in the sensitive lands overlay zones.**
- 19.83.090 Additional conditional use requirements.**
- 19.83.100 Accessory buildings.**
- 19.83.110 Antennas located on utility poles.**
- 19.83.120 Co-locations.**
- 19.83.130 City's consultants and experts; Reimbursement by applicant.**
- 19.83.140 Abandonment of facilities.**
- 19.83.150 Protection of public safety.**
- 19.83.160 Rules and regulations.**
- 19.83.170 Severability.**

19.83.010 Purpose.

The city finds that wireless telecommunications facilities may pose significant concerns to the health, safety, welfare, character and environment of the city and its inhabitants, and that the Telecommunications Act of 1996 and related authorities confirm the city's authority concerning the placement, construction (including height) and modification of such facilities. The purpose of this chapter is to establish general requirements for the siting of wireless telecommunications facilities.

The intent of this chapter is to protect the health, safety and welfare of the city and its inhabitants by:

- A. Encouraging the location of such facilities in nonresidential areas;
- B. Minimizing the total number of monopole facilities in the community;
- C. Encouraging the joint use of new and existing wireless telecommunication sites;
- D. Encouraging providers to locate wireless telecommunication facilities where the adverse impact on the community is minimal;
- E. Encouraging such providers to use innovative design to minimize adverse visual impact;
- F. Enhancing the ability of the providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- G. Requiring the use of stealth wireless telecommunication facilities wherever possible to prevent adverse aesthetic impacts on the city.

19.83.020 Definitions.

As used in this chapter:

"Antenna" means a transmitting or receiving device used in telecommunications that radiates or captures radio signals.

"Lattice tower" means a self-supporting multiple sided, open steel frame structure used to support telecommunications equipment.

"Monopole facility" or "monopole" means an antenna or series of individual antennas mounted on a single cylindrical pole. Also includes associated equipment. For the purposes of this chapter, if a facility does not fit the definition of a roof or wall mounted facility, it shall be considered a monopole facility.

“*Roof mounted facility*” means an antenna or series of individual antennas mounted on a flat or pitched roof, mechanical room or penthouse of a building or structure. Also includes associated equipment.

“*Stealth facility*” means a facility which is either: (1) virtually invisible to the casual observer, such as an antenna behind louvers on a building, or inside a steeple or similar structure; or (2) camouflaged, through stealth design, so as to blend in with its surroundings to such an extent that it is indistinguishable by the casual observer from the structure on which it is placed or the surrounding in which it is located. Examples of stealth facilities include antennas which are disguised as flagpoles, as indigenous trees, as rocks, or as architectural elements such as dormers, steeples and chimneys. To qualify as “stealth” design, the item in question must match the type of item that it is mimicking in size, scale, shape, dimensions, color, materials, function and other attributes as closely as possible, as reasonably determined by the city.

“*Wall mounted facility*” means an antenna or series of individual antennas mounted against the vertical wall of a building or structure. Also includes associated equipment.

“*Wireless telecommunications facility*” means an unmanned structure which consists of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached.

19.83.030 Applicability; Exceptions.

A. *Applicability*. The requirements of this chapter apply to both commercial and

private wireless telecommunications services such as “cellular” or “PCS” (personal communications services) communications and paging systems. All facilities shall comply with the following regulations and all other ordinances of the city and any pertinent regulations of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA).

B. *Exceptions*. The following are exempt from the provisions of this chapter:

1. Emergency wireless telecommunication facilities for emergency communications by public officials.

2. Amateur (ham) radio stations licensed by the FCC.

3. Parabolic antenna less than seven (7) feet in diameter that is an accessory to the main use of the property.

4. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no increase in the height of the facility or other material change in the other dimensions or aspects of the facility.

5. An antenna that is an accessory use to a residential dwelling unit.

C. *Other types of equipment*. Antennas, communications facilities, or communications equipment not defined or regulated by this chapter are prohibited in all zones within the city.

19.83.040 Site location master plan.

A site location master plan shall be submitted by each applicant desiring placement of wireless telecommunication facilities within the city. The master plan shall be submitted to the director prior to processing any permits for permitted or conditional use locations. The master plan shall include inventory of existing and anticipated sites for the

city and within one mile of the city's boundaries, as well as the current name and address of the facility owner and an emergency telephone number for each facility. In order to facilitate expert analysis of the application by the city's experts and consultants, the master plan also shall indicate area coverage, if known, location, antenna height above existing grade, and antenna type for each site and be updated upon request from the department. Every master plan shall be considered proprietary information that constitutes protected records under the Government Records Access and Management Act, UTAH CODE ANN. 63-2-101, *et seq.*

19.83.050 Allowable uses.

The uses specified in Chart 19.83.050 are allowed, provided that they comply with all requirements of this chapter.

19.83.060 General provisions applicable to wireless telecommunication facilities.

A. Building permit required. No wireless telecommunications facility shall be constructed unless a building permit is obtained from the city following payment of all applicable fees.

B. Compliance with other laws. All communications facilities shall be built and operated so as to be in compliance with all applicable rules, regulations, standards and laws of any body or agency with jurisdiction. Specifically included in this requirement are any rules and regulations regarding lighting, security, electrical and RF emission standards.

C. Engineering review. Each application for a permit to construct a facility shall be accompanied by a certificate from a licensed professional engineer certifying that the design of the facility meets all applicable standards for the

facility, including, but not limited to: electrical safety, material and design integrity, seismic safety, etc. For communications towers, the professional engineer shall also certify that the tower meets acceptable design criteria or standards to withstand wind and other weather damage. In all cases, the certification shall indicate whether or not the facility will interfere with any other communications service.

D. Interference with other communications.

1. No permit to construct a wireless telecommunications facility shall be approved if the operation of the facility will interfere with emergency or airport communications.

2. Wireless telecommunications facilities shall be located and operated in such a manner as to minimize or eliminate interference with other communications, including, without limitation, emergency, airport, commercial, private, and governmental communications.

E. Accessory buildings. Accessory buildings or facilities must comply with required setback, height, and landscaping requirements of the zoning district in which they are located. All power lines on the lot to the building and the communications facility shall be underground.

F. Fencing required. To discourage trespass on the facility and to prevent climbing on any structure by trespassers, free-standing communications facilities shall be surrounded by a fence that is at least six feet high, and constructed out of a material appropriate to the location of the facility, as approved by the director; provided, however, that the director may waive or reasonably modify the requirement for fencing around certain stealth facilities (such as flagpoles, rocks

or trees) in situations where such standard fencing is deemed unnecessary for public health and safety. Antennas that are roof or wall mounted shall be secured from access in a manner appropriate to the location.

G. Removal of climbing pegs. Climbing pegs shall be removed from the lower twenty (20) feet of all monopoles and other communications towers.

H. Aircraft and airport safety. All communications facilities shall comply with applicable laws, regulations, and approvals regarding aircraft and airport operations.

I. FCC license required. No application for a building permit to construct or install a facility, and no application for a conditional use permit to construct or install a facility, shall be processed by the city unless the applicant provides proof of each proposed carrier's current license from the FCC to operate as a telecommunications carrier.

J. Business license required. A city business license shall be required for each wireless telecommunications carrier using a wireless telecommunications facility located in the city. As a condition of issuance of such a business license, the carrier shall certify to the city each wireless telecommunications facility it is actively using in the city by type and location, and shall provide to the city such emergency contact information as the city reasonably may request for each such facility. Failure to obtain or maintain in effect such a business license for a period of six months or more shall constitute grounds for deemed abandonment of such wireless telecommunications facility.

K. Color. The wireless telecommunications facility shall be constructed

with materials and colors that match or blend with the surrounding natural or built environment to the greatest extent practicable. Unless otherwise required, muted colors, earth tones and subdued hues shall be used. The color shall be determined on a case-by-case basis by the planning commission for conditional uses and by the department for permitted uses. On no more than one occasion within six months after the facility has been constructed, the planning commission or the department may require the color be changed if it is determined that the original color does not blend with the surroundings.

L. Height. Height shall be measured from the surrounding natural grade.

19.83.070 Facility types and standards.

Wireless telecommunications facilities are characterized by the type and location of the antenna structure. There are four general types of antenna structures: wall mounted; roof mounted; monopoles; and lattice towers. Standards for the installation of each type of antenna are as follows:

A. Wall Mounted Antenna. The following provisions apply to wall mounted antennas:

1. Stealth wall mounted antennas shall be required to the greatest extent possible based on wireless telecommunications best practices at the time of application, and shall not vary from the provisions of bulk, massing, and height requirements under this code for structures in the zone where the facility is proposed.

2. Wall mounted antennas shall not extend above the wall line of the building or structure or extend from the face of the building or structure more than two feet.

3. Non-stealth antennas, equipment and the supporting structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Non-stealth antennas and the supporting structures on buildings should be architecturally compatible with the building.

4. Antennas mounted directly on existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures, shall be considered a wall mounted antenna.

B. Roof Mounted Antenna. The following provisions apply to roof mounted antennas:

1. Stealth roof mounted antennas shall be required to the greatest extent possible based on wireless telecommunications best practices at the time of application, and shall not vary from the provisions of bulk, massing, and height requirements under this code for structures in the zone where the facility is proposed, unless additional height is approved by the planning commission pursuant to section 19.76.200 of this title.

2. Roof mounted antennas shall be allowed so long as they are completely enclosed within an architecturally compatible, approved housing or they comply with the following requirements:

(a) Setback. Non-stealth antennas shall be mounted at least ten (10) feet from the closest exterior wall or parapet wall of a building or structure.

(b) Height. The height shall be measured from the top of the antenna to the roofline of the building or structure, or to the top of the closest parapet wall if a parapet wall exists. For antennas mounted between ten and 14 feet from the closest exterior wall or parapet wall, the maximum height of the antenna is

equal to the distance the antenna is set back from such exterior wall or parapet wall. For antennas set back more than 14 feet from the closest exterior or parapet wall, the maximum height of the antenna shall be 14 feet.

3. Roof mounted antennas shall be constructed and/or colored to match the surroundings in which they are located.

C. Monopoles. The following provisions apply to monopoles:

1. Stealth monopole facilities shall be required to the greatest extent possible based on wireless telecommunications best practices at the time of application, and shall not vary from the provisions of bulk, massing, and height requirements under this subsection (C).

2. In order to reasonably minimize the number of monopoles in the city, all monopoles shall be available for co-location of the antenna arrays of other providers to the greatest extent practicable.

3. Except as specified in subparagraph (C)(4) of this subsection, the height limit for monopoles in all of the city's zones is 65 feet.

4. The planning commission may allow a stealth "flagpole" monopole up to 80 feet high in the city's CR, MU or O-R-D zone if it finds:

(a) The increase in height is for an extension of an existing facility;

(b) The monopole will be set back at least the greater of (i) the minimum setback for structures in the underlying zone, or (ii) a distance from the nearest single family residential zone boundary that is at least twice (200%) the total height of the monopole (so that, for example, an 80-foot tall monopole would be set back at least 160 feet from the nearest single family residential zone boundary); and

(c) The monopole will blend in with the surrounding structures, poles or trees and is compatible with surrounding uses.

5. The height of a monopole shall be measured from the highest point of the structure or any component thereof (including antennas and ornamental features), to the original grade directly adjacent to the monopole.

6. All monopole facilities disguised as “stealth” flagpoles shall be tapered from bottom to top and otherwise shall be constructed (in size, scale, dimensions, shape, color and functionality) to represent as closely as possible a standard flagpole.

7. In all residential zones except the RM and R-2-8 zones, monopoles will only be allowed in conjunction with an existing public or quasi-public use. Public and quasi-public uses, as defined in sections 19.04.440 and 19.04.450, include but are not limited to churches, schools, utilities, and parks.

8. Electronic cabinetry. The electronic cabinetry and enclosure shall be the minimum size practicable under industry best practices (as reasonably determined by the city), but shall not in any event exceed twenty-five (25) feet by twenty-five (25) feet by ten (10) feet tall.

9. Screening. Monopoles and electronic cabinetry shall be located to obtain the highest amount of visual screening, such as being located behind existing structures or screened with mature trees and shrubbery. Each application for a monopole facility shall include a screening plan. If adequate screening does not exist on the site, the applicant shall provide it as a condition of approval.

10. To encourage efficient space utilization, each co-locator shall place its electronic cabinetry with one shared wall to the original electronic cabinetry

enclosure. Where the location is limited, as in a commercial district, the first locator shall build housing that can adequately contain all reasonably foreseeable co-locators’ electronic cabinetry. Where the site is residential in character or is not conducive to landscaping, the electronic cabinetry shall be encased in a structure simulating a small residential building as approved by the city’s architectural review commission (ARC), with gabled roof and durable and exterior materials that are in character with the surrounding neighborhood.

11. A computer-generated 3D visual simulation of proposed structures, and all existing or proposed structures within a radius of 150 feet of the site, shall be required of every applicant requesting a monopole or extension of a monopole; provided, however, that (1) if the applicant determines that it is unable to obtain such a simulation itself for a cost of \$1,000 or less, the applicant may tender such amount to the city with its application, in which event the city shall utilize the funds to obtain such simulation directly from city’s own experts or consultants; and (2) the planning commission, upon the positive recommendation of the director in consultation with the city’s development review committee (“DRC”), may waive this requirement if it determines that another representation of the proposed facility, such as a photo simulation, will adequately depict the proposed facility and its surroundings. Each simulation shall show all structures, including, without limitation, monopoles, antennas, and equipment buildings.

D. LatticeTower. Lattice towers are not allowed in any zones in the city.

19.83.080 Sites in the sensitive lands overlay zones.

For the purpose of this chapter the “sensitive lands” means the areas within the sensitive lands overlay zones shown on the city’s zoning map.

A. Any grading for telecommunication facilities, including access roads and trenching for utilities, shall comply with the city’s building code and all other applicable laws and codes. Telecommunication facilities in the sensitive lands shall comply with the requirements of the sensitive lands overlay zone and the underlying zone (whichever requirements are more restrictive) for grading, natural vegetation, utilities and site development and design standards. Everything possible shall be done to minimize disturbance of the natural environment.

B. A computer-generated visual simulation of the proposed structures is required for all sites in the sensitive lands; provided, however, that (1) if the applicant determines that it is unable to obtain such a simulation itself for a cost of \$1,000 or less, the applicant may tender such amount to the city with its application, in which event the city shall utilize the funds to obtain such simulation directly from city’s own experts or consultants; and (2) the planning commission, upon the positive recommendation of the director in consultation with the DRC, may waive this requirement if it determines that another representation of the proposed facility, such as a photo simulation, will adequately depict the proposed facility and its surroundings. Each simulation shall show all structures, including, without limitation, monopoles, antennas, and equipment buildings.

C. Everything possible shall be done to minimize disturbance of the visual

environment. Site placement and color shall be carefully considered to blend in with the surroundings.

D. Continuous outside lighting is prohibited unless required by the FAA for the monopole.

19.83.090 Additional conditional use requirements.

In addition to the conditional use standards under chapter 19.84 of this title, “Conditional Uses,” the following supplementary standards shall apply to applications for conditional use permits to locate wireless telecommunication facilities:

A. The proposed facility shall be compatible with the height and mass of existing buildings and utility structures.

B. To the greatest extent practicable without significantly impacting antenna transmission or reception, the proposed facility shall be located in the same vicinity as other monopoles, buildings, water towers, utility poles, athletic field lights, parking lot lights, etc. to enhance visual screening of the facility.

C. The facility shall be located in relation to existing vegetation, topography (including ridge lines) and buildings to obtain the best visual screening.

D. Spacing between monopoles which creates detrimental effects that cannot be mitigated through the imposition of reasonable conditions such as, for example, stealth technology or visual screening through trees or other vegetation is prohibited.

E. Installation of (without limitation) curb, gutter, sidewalk, landscaping, and fencing as per chapters 19.76, “Supplementary and Qualifying Regulations” and 19.84 “Conditional Uses” is required to the greatest extent practicable.

F. Screening, to the greatest extent practicable, by trees and other vegetation, of the wireless telecommunications facility and related equipment from view by adjacent properties is required to the greatest extent practicable. Existing vegetation and natural land forms on the site shall be preserved to the greatest extent practicable.

G. The wireless telecommunications facility shall be permitted only as necessary to comply with FAA or other applicable legal requirements; provided, however, that down-directed security lighting may be used if it is shielded to retain such light within the boundaries of the site to the greatest extent practicable.

H. The wireless telecommunications facility shall have no unreasonable adverse impact on the city's mountain viewsheds and other scenic resources. In determining the potential adverse impact of the proposed facility on such viewsheds and scenic resources, the planning commission shall consider the following factors:

1. The extent to which the proposed facility is visible above the tree line;
2. The type, number, height and proximity of existing structures, features and background features within the same line of sight as the proposed facility;
3. The amount of vegetative screening; and
4. The availability of reasonable alternatives allowing the facility to function consistently with its purpose.

I. In considering a conditional use application for a telecommunications tower, the planning commission shall not consider evidence that the electromagnetic or microwave radiation used by communication services detrimentally affects public health or the environment. The planning commission may, however, consider other valid health

and safety concerns, such as structural integrity, electrical safety, etc.

19.83.100 Accessory buildings.

Accessory buildings to antenna structures must comply with the required setback, height and landscaping requirements of the zoning district in which they are located. All utility lines on the lot leading to the accessory building and antenna structure shall be underground.

19.83.110 Antennas located on utility poles.

Antennas on utility poles and associated electrical equipment shall be allowed subject to the following standards:

A. Antennas.

1. The antennas shall be located either on an existing utility pole or on a replacement pole in the public right-of-way, in a public facilities zone, or in a rear yard utility easement.

2. On an existing pole, the antennas shall not extend more than lesser of (a) the minimum distance required by the National Electric Safety Code based on the electrical use of such pole, or (b) the maximum height for structures in the underlying zoning district.

3. If the utility pole is replaced to accommodate the antennas, the replacement pole shall not be taller than the maximum height for structures in the underlying zoning district.

4. The antennas, including the mounting structure, shall not exceed two feet in diameter and shall be tapered where technically possible.

5. Stealth shielding of the antennas shall be used to make the antennas appear as a vertical extension of the pole.

6. Antennas located in the public right-of-way shall be a permitted use and

shall comply with the standards listed above.

7. Conditional use approval is required for antennas located in a rear yard utility easement in all zoning districts.

B. Electrical/radio equipment.

1. Electrical/radio equipment located in the public right-of-way, front yard or side yard.

(a) Electrical/radio equipment in the public right-of-way shall either be attached directly to the utility pole or completely enclosed in an ARC-approved housing. If the electrical equipment is attached to the pole, the boxes shall not be larger than the smallest available size under industry best practices, as reasonably determined by the city, and in no event larger than 72 inches tall x 52 inches wide x 48 inches deep. No more than five such boxes shall be mounted on the utility pole to which it is attached (excluding the power meter and network interface box). The boxes shall be stacked vertically, one above the other, and shall be at least ten feet above the ground. The power meter and network interface box may be installed below the ten foot level.

(b) Electrical equipment in the required front or side yard shall be completely enclosed in an ARC-approved housing (not exceeding the smallest available size under industry best practices, as reasonably determined by the city, and in no event larger six feet in width, depth or height) which will disguise the equipment and enhance the architectural quality of accessory equipment associated with the wireless telecommunications equipment.

2. Electrical equipment in the rear yard.

(a) Electrical equipment located in the rear yard area of a lot in a residential or F zoning district shall be completely

enclosed in an ARC-approved housing (not exceeding five feet in width, depth or height) which will disguise the equipment and enhance the architectural quality of accessory equipment associated with the wireless telecommunications equipment.

(b) Electrical equipment located in a rear yard shall conform to the lot area, coverage and location requirements for an accessory structure in the underlying zoning district, as well as all other zoning standards for a structure in that zoning district.

C. General provisions.

1. The application shall include the signature of the authorized agent of the owner of the utility pole.

2. Antennas and equipment boxes on utility poles shall be painted to match the pole to which it is attached to minimize visual impacts.

3. Generators or noise-producing venting systems which can be heard outside of the boundaries of the site shall not be used.

4. Electrical and utility cables between the utility pole and electrical boxes shall be placed underground.

19.83.120 Co-locations.

Co-location of wireless telecommunications equipment and antenna arrays on existing monopoles is a permitted use under the following conditions:

A. The height limit for equipment and antenna arrays co-located on an existing monopole shall not exceed 65 feet, except that the planning commission may allow, as a conditional use, a total height limit of up to 80 feet for a co-located monopole in the CR zone, the MU zone or the O-R-D zone.

B. The planning commission also may allow, as a conditional use, the height of an existing monopole facility in

the PF zone to be increased to a total height (including all antenna arrays and other components) of 80 feet if it finds:

1. The increased height will be accomplished through extension of an existing, legally-permitted monopole facility;

2. The monopole will be set back at least the greater of (a) the minimum setback for structures in the underlying zone, or (b) a distance from the nearest single family residential zone boundary that is at least twice (200%) the total height of the monopole, as extended (so that, for example, an 80-foot tall monopole would be set back at least 160 feet from the nearest single family residential zone boundary); and

3. The monopole, as extended, will blend in with the surrounding structures, poles or trees (through stealth technology or otherwise), and is compatible with surrounding uses.

4. The location of the property where the monopole is sited is primarily on an arterial street, as determined by the director.

5. The applicant will use all reasonably-available means to make the proposed extension as short as reasonably possible, including, without limitation, custom fabrication of the antenna arrays and other components to be included in the proposed extension.

C. No equipment or antenna array shall increase the height of an existing monopole more than 20 feet.

D. The scale and color of equipment and antenna arrays co-located on the monopole is compatible with the scale and color of the existing structure.

E. Wireless telecommunications facilities which co-locate on existing monopoles and do not exceed 65 feet in height may be approved by the director

under the guidelines outlined in this chapter.

19.83.130 City's consultants and experts; Reimbursement by applicant.

A. The city may hire any consultant and/or expert deemed necessary by the city to assist the city in reviewing and evaluating an application for a wireless telecommunications facility, including site/construction inspection of any approved applications.

B. If an applicant claims that it is unable to locate in a particular area or build an antenna in a particular configuration, the planning commission may, at the applicant's expense, require a study provided by a professional selected by the planning commission regarding the applicant's claim.

C. Each applicant shall deposit with the city funds sufficient to reimburse the city for all reasonable costs of consultant and expert evaluation of the application. The initial deposit shall be \$2,500, and shall be utilized only for the purpose of paying invoiced costs and fees incurred by the city to its experts and consultants in connection with such application.

1. The city may engage such experts and consultants to evaluate applications to ensure that the purpose of this chapter is met, including whether reasonable alternatives exist that would mitigate the reasonably anticipated detrimental effects of the proposed facility. Such expert review may include, without limitation, evaluation of the proposed facility to determine:

(a) the proposal's effectiveness and efficiency in delivering service from the proposed location;

(b) the service-based necessity of siting and constructing the facility as proposed;

(c) the possibility of co-location on, or other joint use of, the proposed facility;

(d) whether the proposed facility exhibits innovative design and best practices of the industry;

(e) the possibility using stealth innovations or other available technology to minimize the visual impact of the facility; and

(f) the city's alternatives concerning the application under the Federal Telecommunications Act of 1996 and other applicable law.

2. Such deposit shall accompany the application, and shall be replenished by the applicant promptly upon the city's request. If the deposit is depleted through review costs associated with the application, before the applicant will be required to replenish the deposit the city will:

(a) attempt to meet with the applicant or responsible party to discuss the need for further review of the application;

(b) attempt to establish a mutually-agreeable timeframe for further review of the application; and

(c) attempt to review reasonable alternatives with the applicant or responsible party for wireless telecommunications opportunities which may reach the same end goal of wireless coverage for the provider.

3. The city may defer any action or consideration of the application at any time that such deposit has not been made or replenished. Any balance of such deposit remaining after completion of the city's processing of such application shall be promptly refunded to the applicant.

D. The amount of funds utilized by the city under subsection (B) of this section may vary according to, *inter alia*, the scope and complexity of the project contemplated by the application.

19.83.140 Abandonment of facilities.

A. Vandalism. Vandalism and graffiti affecting a wireless telecommunications facility may be reported to such facility's owner or operator by the city or its agents. Such vandalism or graffiti shall be repaired and cleaned within 72 hours after such notice of its occurrence. Failure to effect such repair or cleaning by that deadline shall be deemed a violation of this code and also may result in immediate issuance by the planning commission of an order to show cause why such wireless telecommunications facility should not be deemed abandoned.

B. Abandonment.

1. Any antenna structure, monopole, antenna support, accessory structure or other component of a wireless telecommunications facility that has not been maintained as required in this code, or has not been in active use for a period of over 90 consecutive days or a total of 180 days in any 365 day period, may be deemed abandoned. In that event, the director may issue to (a) the owner of the realty in question, and (b) any operator of such facility shown on the city's current business license records, an order to show cause why such wireless telecommunications facility should not be deemed abandoned. A public hearing before the director or his designee on such order to show cause shall follow within a reasonable time, wherein the director or designee shall hear evidence and render a decision concerning whether the facility has been abandoned through failure of maintenance or through non-use. Such

decision may be appealed to the board of adjustment as provided in this title.

2. A monopole or other wireless telecommunications facility that is abandoned or otherwise vacated and no longer in use, and all associated apparatus, components, housings and structures, shall be removed from the site within 60 days after such abandonment, vacation or non-use by (a) removing all above-ground components, (b) removing at least the top three (3) feet of any associated foundation or footings, and (c) restoring the site to its original condition. The obligation to effect such removal shall be the joint and several obligation of the last known owner of the facility (as shown on the city's business license records) and the owner of fee title to the underlying realty, and may be enforced by the city against either or both. An abandoned wireless telecommunications facility also is a nuisance, which may be abated by the city as provided elsewhere in this code.

3. Any conditional use permits issued for an abandoned facility shall be automatically revoked.

4. As an additional condition of approval of an application for a wireless telecommunications facility, the applicant shall provide to the city a written agreement or other undertaking in such form as the city may require perpetually guarantying removal of such

facility, and all components thereof, as provided in this section.

19.83.150 Protection of public safety.

The city reserves the right to undertake, with or without notice to the owner, any actions necessary to correct, remove, or repair communication facilities that are deemed to be an immediate danger to public safety. The owner of the site shall bear the expense of emergency actions taken pursuant to this section.

19.83.160 Rules and regulations.

The planning commission may from time to time, by resolution, adopt and amend written regulations and guidelines to assist the planning commission, its advisory bodies, and planning staff to accomplish the permitted purposes of this chapter.

19.83.170 Severability.

If any portion of this chapter, or any application thereof, is declared void, unconstitutional or invalid for any reason, then such portion or proscribed application shall be severable, and the remaining provisions of this chapter, and all other applications thereof, shall remain in full force and effect to the greatest extent permitted by applicable law.

CHART 19.83.050				
P. Permitted Use	C. Conditional Use			N- Not allowed
Zones	Wall Mount	Roof Mount	Monopole	Lattice Tower
F-Zones	C1	C1	C2	N
RR Zones	C1	C1	C2	N
R-1-15	C2	C2	C2	N
R-1-10	C2	C2	C2	N
R-1-8	C2	C2	C2	N
R-1-6	C2	C2	C2	N
R-2-8	C2	C2	C	N
RM	C	C	C	N
RO	C	C	C	N
MU	C	C	C	N
NC	C	C	C	N
CR	C	C	C	N
PF	C	C	C	N
ORD	C	C	C	N
All other zones	N	N	N	N

1. Conditional use, allowable only on nonresidential buildings
2. Conditional use, allowable only in conjunction with public or quasi-public buildings